



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-6385-2025
Date of decision: 25.02.2025

Gulfam

...Petitioner

Versus

M/s Saksham Group

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Jasbir Singh, Advocate for
Mr. Suresh Ahlawat, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 528 of BNSS 2023 seeking setting aside of order dated 30.11.2024 Annexure P-7 passed by the Court of Additional Sessions Judge, Gurugram in criminal complaint having CRM-706-2024 titled as Gulfam Vs. M/s Saksham Group, under Section 138 NI Act.

2. The counsel for the petitioner *inter alia* submits that petitioner filed criminal complaint titled Gulfam Vs. M/s Saksham Group, under Section 138 NI Act and the said complaint was wrongly dismissed in default for want of prosecution by the trial Court vide order dated 17.12.2019, as on that date, none appeared on behalf of the petitioner in the said criminal complaint. Being aggrieved, petitioner filed revision petition and the same was allowed by the Court of Additional Sessions Judge, Gurugram vide order dated 28.08.2024 Annexure P-5 with direction to the petitioner to appear before the trial Court on 17.09.2024. Counsel for the petitioner further submits that on the relevant date, the petitioner appeared before the trial Court but the file was not available and as such, the presence of the petitioner was not marked. The petitioner again filed an application Annexure P-6 before the Court of Additional Sessions Judge, Gurugram seeking extension of time to appear before the learned trial Court in



compliance of the earlier order Annexure P-5. However, the said application was dismissed by the revisional Court vide order Annexure P-7 dated 30.11.2024. The counsel for the petitioner further submits that being aggrieved, the petitioner has filed the present petition with prayer that one last opportunity be given to the petitioner to comply with the order Annexure P-5 passed by the revisional Court.

3. I have considered the submissions made by counsel for the petitioner.

4. The order dated 17.12.2019 whereby the criminal complaint filed by the petitioner was dismissed in default, is not legally sustainable as the presence of the petitioner on that date was not necessary at all and thus, the revisional Court rightly set aside the same vide order Annexure P-5 with direction to the petitioner to appear before the trial Court on 17.09.2024. It appears that due to some unavoidable circumstances, the petitioner was unable to appear before the trial Court on 17.09.2024. This Court is of the view that the revisional Court should have taken lenient while passing order Annexure P-7 whereby the petitioner had sought extension of time to comply with its earlier order Annexure P-5.

5. Having regard to the aforesaid facts and circumstances of the case, the present petition is hereby allowed in the interest of justice and the petitioner is directed to appear before the learned trial Court within next 15 days, in compliance of the order dated 28.08.2024 Annexure P-5 passed by the Court of Additional Sessions Judge, Gurugram and thereafter, the trial Court is to proceed ahead in the case from the stage it was dismissed in default.

25.02.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No