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

**CRM-M No.8562 of 2025
Date of decision : 14.02.2025**

Brij Pal**.....Petitioner****versus****State of Haryana and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Rahul Soi, Advocate
for the petitioner (through video conferencing).

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing/setting aside the order dated 14.11.2024 (Annexure P-7) passed by the learned Judicial Magistrate First Class, Panchkula in case of complaint under Section 138 of Negotiable Instruments Act, 1881 bearing registration No.NACT-572-2022 titled as “Hem Singh vs. Brij Pal”, whereby the petitioner was declared as proclaimed person. Further prayer has been made for staying the arrest of the petitioner during the pendency of the present petition.

2. It has been contended by counsel for the petitioner that the petitioner was prosecuted in complaint filed under Section 138 of Negotiable Instruments Act. He has submitted that the learned trial Court vide order dated 06.07.2022 had summoned the petitioner to face trial. He has submitted that despite the fact that bailable warrants issued to the petitioner were returned back unexecuted, the learned trial Court issued

fresh warrants of arrest vide order dated 24.08.2023 for 30.05.2024. He



submits that thereafter vide order dated 30.05.2024, proclamation proceedings against the petitioner were directed to be initiated. He submits that on 01.10.2024 the serving constable in his statement had stated that he visited the premises of petitioner on 30.09.2024 and he was not available at his house, so affixation was made on the gate of his house. He has thus submitted that the learned trial Court vide order dated 14.11.2024, declared the petitioner as proclaimed person. He has submitted that the petitioner was never served with any notice of proclamation. He has submitted that absence of the petitioner was bona fide and not intentional. He has further submitted that the petitioner is ready to appear before the learned trial Court and abide by the terms and conditions imposed upon him.

3. Notice of motion to official respondent No.1 at this stage.

4. On asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana appears and accepts notice on behalf of respondent No.1-State. He has opposed the submissions made by learned counsel for the petitioner and has stated that the trial Court has rightly declared the petitioner as proclaimed person who remained absent from the Court without any valid reason despite orders.

5. After hearing counsel for the parties and perusing the record, it is apparent that the petitioner was prosecuted in complaint under Section 138 of NI Act. However the petitioner remained absent as he was never served with any notice of proclamation under Section 82 of Cr.P.C. Without commenting anything about the authenticity of the ground of absence taken by the petitioner, this Court proceed to decide the matter as now the petitioner is ready and keen to join the proceedings. So keeping in



view the abovesaid facts, the present petition is disposed of and the impugned order dated 14.11.2024 declaring the petitioner as proclaimed person is *set aside* subject to payment of Rs.10,000/- as costs to be paid to the Society for the Care of Blind, Sector 26, Chandigarh within a period of 07 days from today. In case the petitioner appears before the trial Court and files appropriate application along with receipt of costs before the trial Court within a period of 10 days from today, the trial Court will admit him to bail subject to its satisfaction during the pendency of trial and proceed with the trial as per law. Petitioner will have protection from arrest for a period of 10 days from today.

6. Needless to say that in case the petitioner fails to comply with the abovesaid direction, he have no benefit of this order and the order dated 14.11.2024 would stand automatically revived and the present petition shall be deemed to have been dismissed.

7. Disposed of in above terms.

14.02.2025
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No