



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

135

CRM-M-9613-2025

Decided on : 19.02.2025

Sanjay Kumar

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Harjit Yadav, Advocate and
Mr. Chanderhas Yadav, Advocate for the petitioner.

SANJAY VASHISTH, J. (Oral)

1. By way of present petition filed under Section 528 of BNSS, 2023, petitioner is seeking quashing of order dated 02.12.2024 (Annexure P-17), passed by learned Judicial Magistrate First Class, Jind, in complaint No. NACT/227/2021, whereby the petitioner has been declared as proclaimed person.

2. Learned counsel for the petitioner *inter alia* contends that there being no notice or information to the petitioner, he could not join the proceedings in the complaint filed against him under Section 138 of the Negotiable Instruments Act. Resultantly, on account of non-appearance, learned Trial Court vide its order dated 02.12.2024, declared the petitioner as 'Proclaimed Person'. For reference, same is reproduced herebelow:

*“ Present: complainant in person with
Sh. Multan singh, Advocate*

Today the case was fixed for presence of accused Sanjay Kumar. But the accused has not come present in the court today.

At the same time, complainant appeared and suffered statement to the effect that he has no knowledge about the

**CRM-M-9613-2025****- 2 -**

property of accused. Until the property of accused is known, til then he has no objection to consign the file. The evidence recorded in pre-evidence be read as evidence under Section 299 Cr.P.C.

Therefore, accused Sanjay Kumar is hereby declared as proclaimed person. Intimation be sent to concerned SHO. Hence, the present file be consigned to record room with direction to Ahlmad to make red ink note that the file relates to accused who is proclaimed person. The file shall not be destroyed as it shall be taken up again as and when the accused appears or is produced by the police before court.”

3. Learned counsel for the petitioner submits that petitioner is inclined to join the process of law before learned Trial court and undertakes to co-operate throughout the proceedings before the trial Court. Counsel also informs that deliberately, complainant-Jasbir Singh did not serve notice upon the petitioner and had there been any such effort, very comfortably petitioner could be served the notice, because he(petitioner) had been appearing in the same Court in some other matter also. Therefore, there could not be any reason for the petitioner to avoid the appearance before the trial Court, once he is appearing in the other cases before the same Court.

Learned counsel further submits that the non-appearance of the petitioner before learned Trial Court was neither intentional nor a deliberate act, rather it was due to the reason explained and noticed hereinabove.

4. He further contends that, if one more opportunity is afforded to the petitioner to appear by granting some protection from arrest, he undertakes that in all the future proceedings of the present case, he would never be absent from the Court, except by obtaining prior permission from the Court, and thus will fully cooperate in the Court proceedings for early completion of trial.

5. Notice of motion.

6. On asking of the Court, Mr. Kanwar Sanjiv Kumar, AAG,



CRM-M-9613-2025

- 3 -

Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

A copy of the complete paper book has been supplied to him by learned counsel for the petitioner.

7. Learned State counsel opposes the request of the petitioner, and submits that petitioner has willfully remained absent from the proceedings of learned Trial Court and thus, does not deserve any sympathy. Therefore, petitioner should be directed to surrender before the Court and to face trial.

8. I have heard learned counsel for the parties and perused the relevant material on record. It is evident that petitioner is inclined to join the process of law, and by way of present petition, he is seeking one chance to join the proceedings before the learned Trial Court, by abiding to the terms and conditions.

9. This Court is also of the view that paramount consideration of the Court is to secure presence of accused on each and every date for speeding up the trial for its final conclusion. Already Courts are flooded with so much litigations, resulting in slow pace of work, because of more than one reason. The required energy and manpower be used for expediting the proceedings of the Court, instead of running after the accused persons to get hold of them.

10. Therefore, in the totality of circumstances and placing reliance upon the order passed by this Court in the case of '**Hardeep Kumar Saini @ Bhola Vs. State of Punjab**' (CRM-M-737-2025, decided on 10.01.2025), I am of the opinion that granting the petitioner an opportunity to appear before the trial Court, would serve the ends of justice. This approach would also save considerable time, effort, and resources in ensuring the petitioner's presence.

11. In view of the above, present petition is allowed and impugned order dated 02.12.2024 passed by learned Judicial Magistrate First Class, Jind is

**CRM-M-9613-2025****- 4 -**

hereby set aside. It is directed that if petitioner on his own appears before the learned trial Court on or before 03.03.2025, he would be released on bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would submit specific undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

12. It is clarified that the trial/concerned Court shall be at liberty to impose such other condition(s) upon the petitioner, as deemed appropriate by it in the facts and circumstances of the case

13. Needless to mention here that on compliance of all the conditions mentioned here-in-above, impugned order dated 02.12.2024 (Annexure P-17) and the subsequent orders would become inoperative *qua* the petitioner.

14. **Present petition stands disposed of accordingly.**

(SANJAY VASHISTH)
JUDGE

February 19, 2025*rashmi**Whether speaking/reasoned: Yes/No**Whether Reportable: Yes/No*