



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

Sr. No.128

**CRM-M-9211-2025 (O&M)
Decided on :18.02.2025**

VIKAS KUMAR

.....Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Amandeep Singh, DAG, Punjab

SANJAY VASHISTH, J.

1. Instant petition, under Section 528 of the BNSS, 2023 (earlier Section 482 Cr.P.C.), has been filed for quashing of the order dated 09.12.2024 (Annexure P-11), passed by learned Sub Divisional Judicial Magistrate, Amloh, whereby the petitioner has been declared as proclaimed person, on account of his non-appearance in the complaint bearing NACT No. 142 of 2022 dated 27.05.2022, titled as M/s Ahlawat Trading Company Versus M/s Vikas Trading Company.

2. Learned counsel for the petitioner submits that the petitioner- Vikas Kumar, has been arrayed as accused No.2 in the complaint filed by respondent No.2, for committing an offence under Section 138 of N.I. Act. He further submits that the petitioner was summoned to face the proceedings in the aforementioned case vide order dated 29.07.2022 (Annexure P-2). However, he never received any notice or information through any mode regarding the pendency of the complaint against him and on that account, he never put in appearance before learned trial Court. Resultantly, he has been declared as

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proclaimed person by the Court of learned Sub Divisional Magistrate, Amloh, vide the impugned order dated 09.12.2024.

3. Further submits that in case one opportunity is granted for releasing the petitioner on bail, by protecting him from arrest, the petitioner undertakes that he would present himself before the Court to face the proceedings and will not absent himself in future, without there being prior permission from the Court, and fully cooperate for early disposal of the trial.

4. Notice of motion.

5. Learned State counsel puts an appearance, and opposes the request of the petitioner by submitting that petitioner does not deserve any sympathy, because, he never appeared before the trial Court.

6. In number of cases, this Court has considered similar plea of non-appearance, expressed at the instance of the accused, who failed to appear before the Court at appropriate time, and observed 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 litigation, 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.”

[see: *Ashish Kumar Honda @ Ashish Handa v. State of Punjab*, Law Finder Doc Id # 2038111; and *Veena @ Veena Devi v. State of Punjab* (CRM-M-2206-2025, decided on 16.01.2025)]

7. I have considered the submissions of both the sides and examined the relevant material available on record. It also cannot be left unnoticed that on coming to know about passing of the impugned order, the petitioner has moved the present petition, showing his inclination to submit himself before the trial Court.

8. In totality of circumstances, I am of the view that the petitioner can be given one chance to appear before the trial Court, so that proceedings may restart and continue in smooth manner.

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Accordingly, plea of the petitioner is accepted. Impugned order (supra) is set aside, and he is directed to be released on bail, in the eventuality of surrender by him before the trial Court on or before 05.03.2025.

9. The petitioner shall also furnish bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would also 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.

10. However, this order shall be subject to the payment of Rs.15,000/- as costs, to be deposited by the petitioner in an Old Age Home of the area, as may be decided by the learned Trial Court. The Trial Court shall also specify the time frame within which such costs will be required to be deposited, but not more than two weeks, failing which this order would not be of any advantage to the petitioner.

11. With aforementioned terms, present petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

18.02.2025
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Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No