



CRM-M-9750-2025

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
131 CRM-M-9750-2025
Decided on : 20.02.2025

Naresh Chand

.....Petitioner

Versus

State of Punjab and anr

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Ms. Ritu Pathak, 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 30.08.2024(Annexure P-3), whereby the petitioner has been declared as proclaimed person, on account of his non-appearance in case NACT-20-2020.

2. Learned counsel for the petitioner *inter alia* contends that there being no information to the petitioner about the date fixed before learned trial Court, 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 30.08.2024, declared the petitioner as 'Proclaimed Person'. For reference, same is reproduced herebelow:

“ Present: Sh.Mohti Verma, Advocate for complainant
Accused (Proclaimed person)



Accused Naresh Chand failed to appear in the court today. Statement of Serving Constable regarding publication was recorded on last date of hearing. Period of 30 days have elapsed since publication of proclamation which was published on 19.07.2024. Accordingly, accused is declared as proclaimed person. The evidence adduced by complainant in preliminary evidence is treated under Section 299 Cr.P.C. Ahlmad is directed to initiate separate criminal miscellaneous proceedings under Section 83 Cr.P.C and under Section 446 Cr.P.C for taking action against the accused. In the miscellaneous proceedings, copies of bail bonds and surety bonds of the accused be placed and non bailable warrants of his surety be issued. A copy of this order be sent to SHO concerned for intimation purposes. After due compilation, this file be consigned to Record Room. ”

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 due to communication gap with his counsel before learned trial Court, petitioner could not appear before it.

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. Amandeep Singh, DAG, Punjab, 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

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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 30.08.2024 passed by learned Additional Chief Judicial Magistrate, Fatehgarh Sahib is hereby set aside. It is directed that if petitioner on his own appears before the learned trial Court on or before 07.03.2025, 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. However, this order shall be subject to the payment of Rs.10,000/- (Rupees ten thousand only) 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.

13. Let costs amount be deposited and receipt be shown to the concerned Court by appearing, failing which this order would not be of any advantage to the petitioner, and the present order would become inoperative..

14. Needless to mention here that on compliance of all the conditions mentioned here-in-above, impugned order dated 30.08.2024 (Annexure P-3) and the subsequent orders would become inoperative qua the petitioner.

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

20.02.2025
rashmi

(SANJAY VASHISTH)
JUDGE

Whether Speaking/Reasoned: YES/~~NO~~

Whether Reportable: ~~YES~~/NO