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

CRM-M-10532-2025

Date of Decision: February 24, 2025

Gurdev Bir Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Ashok Kumar Khunger, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

1. Prayer in the present petition is for quashing of the order dated 18.05.2023 (Annexure P-6) passed by learned JMIC, Abohar, in complaint under Section 138 of Negotiable Instruments Act (for short, 'the NI Act') in case No.NACT/938/2022, titled as **HDFC Bank Limited vs Gurdev Bir Singh** being illegal, null and void.

2. It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He has submitted that in the said complaint, the petitioner was summoned vide order, dated 03.09.2022. It is further submitted that on the next date of hearing, i.e. 16.11.2022 it was ordered by the trial Court that the petitioner had refused to accept the summons and hence he was ordered to be summoned through bailable warrants for 17.01.2023. He submits that he never refused to accept the summons, however, respondent No.2-bank managed to get a false report of refusal and on the next date of hearing, i.e. 17.01.2023, learned JMIC, without effecting any service upon the petitioner, ordered for his summoning through non-bailable warrants. It is submitted that vide order, dated 31.03.2023 without any proper service, he was again



ordered to be summoned through proclamation under Section 82 Cr.P.C. Thereafter, on 18.05.2023, learned JMIC wrongly and illegally declared he petitioner as proclaimed person. He submits that it is clear from the above-facts that neither the petitioner was aware regarding pendency of the above complaint filed by respondent No.2 under Section 138 of the NI Act nor any time he refused to accept the summons. He further submits that even no affixation, as required under Section 82 Cr.P.C. at the house of the petitioner or at any conspicuous place was affixed. He submits that now petitioner is keen to join the proceedings and face the trial in the above said case and as such the order 18.05.2023 be set aside and he be allowed to be released during pendency of the trial of the above said case and he is ready to abide by all the terms and conditions of the bail as imposed by this Court or the trial Court.

3. Notice of motion.

4. On asking of the Court, Mr.Tarun Aggarwal, Sr.DAG, Punjab, who is present in Court, accepts notice on behalf of State and has submitted that the petitioner has rightly been declared as proclaimed person by the trial Court as he remained absent from Court for a long time without any reasonable cause.

5. After hearing learned counsel for the parties and perusing the record, it is evident that due to non-appearance of the petitioner, he was declared as proclaimed person on 18.05.2023. The reason given for the non-appearance by the petitioner is that he was not served and as such was not aware of the pendency of the case against him. However, this Court, without going into the merits of the grounds taken by the petitioner for his absence, deems it appropriate to dispose of this petition as petitioner is keen to join the proceedings and face the trial. In these circumstances, when the petitioner is ready to join the proceedings and face the trial, no useful purpose would be served by sending him behind the bars, therefore, the order, dated 18.05.2023, is set aside subject to payment of Rs.25,000/- as costs, to be paid to the complainant on his first appearance before the trial Court.



a period of ten days from today and file an appropriate application alongwith costs of Rs.25,000/- and the trial Court would grant him bail till the disposal of the case on his furnishing bail/surety bonds subject to its satisfaction. The petitioner will have protection from arrest for a period of ten days from today. The trial Court is free to impose any condition it likes on the petitioner while admitting him to bail. The trial Court will issue notice to the complainant and on his appearance, hand over the costs of Rs.25,000/- to him forthwith and proceed with the case as per law.

7. Needless to say that in case the petitioner fails to comply with the abovesaid direction, this order would be of no avail to him and the order dated 18.05.2023 will come in force and the present petition shall be deemed to have been dismissed.

8. Petition stands disposed of in abovesaid terms.

February 24, 2025
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(RAJESH BHARDWAJ)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |