



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

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**CRM-M-15720-2025
Decided on : 21.03.2025**

Gursharan Singh

... Petitioner(s)

Versus

Dalip Kumar

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Inderpal Singh Parmar, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

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 08.09.2023 (Annexure P-8), passed by Ld. Judicial Magistrate First Class, Samrala, in complaint case bearing CIS No. N.I. Act/17/2020, titled as, “Dalip Kumar v. Gursharan Singh Etc.”, whereby the petitioner has been declared as ‘proclaimed offender’.

2. Learned counsel for the petitioner submits that the respondent/complainant – Dalip Kumar, filed a complaint on 17.01.2020, whereas, already on 06.01.2020, petitioner has left the India, and has settled there in USA. Thereafter, he has never visited back to India.

The summoning order was passed on 06.10.2021. While referring to the zimni orders (11.02.2022 to 21.04.2023), learned counsel submits that the notice(s) could not be issued, because of non-filing of the copies of the complaint within the stipulated period. Even as per the report received on summons, service was never shown to be effected. Thus, learned counsel submits that the order of issuance of warrants of arrest is not

maintainable.

3. Be that as it may, learned counsel for the petitioner submits that absence of the petitioner was neither intentional nor deliberate, but due to the reasons, as mentioned above. Further submits that petitioner is inclined to visit India and to join the process of law, however, he be granted protection from arrest on his arrival to India, and also, he be directed to be released on bail, on his surrendering before the Court. In case, one opportunity is granted, petitioner also undertakes that he would not absent himself in future, without there being prior permission from the Court, and fully cooperate for early disposal of the trial.

4. This Court is of the view that dispute raised through the present petition can be decided *in limine* and without calling the other side here, because the way this Court intends to dispose of the present petition, no prejudice would be suffered by the complainant *qua* his rights.

5. In number of cases, wherein, accused stopped appearing in criminal cases, the Courts are compelled to declare accused as 'Proclaimed Person/Proclaimed Offender'. After examining the facts, this Court has formulated a uniform method to ensure the presence of accused before the concerned Court, to enable it to proceed further instead of delaying the proceedings by awaiting the presence of accused.

Intentional or unintentional default of the accused can be dealt with by examining the facts from case to case involved, and where it is realised that absence or prolonged absence of such accused is intentional to evade the process of law, he/she can be penalized examining the nature of crime in which he is facing the proceedings and thereupon by imposing some cost amount subject to his/her capacity to pay.

Primary object of every Court is only to examine the commission of crime in question before it *viz-a-viz* the person/accused, who is subjected to such proceedings, and if possible justice be imparted at the earliest without unnecessary delay. It is not expected that undue time would be devoted in securing the presence of absconded accused and also to waste energy by enforcing the special mechanism to arrest such accused.

Considering all such aspects, this Court in the case of ***Ashish Kumar Honda @ Ashish Handa Vs. State of Punjab, 2022 (4) RCR (criminal) 765; Law Finder Doc Id # 20238111*** considered similar plea of 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.”

Again, this Court has considered the aforementioned similar plea in case ***Veena @ Veena Devi v. State of Punjab (CRM-M-2206-2025, decided on 16.01.2025.***

6. I have considered the submissions of both the sides and examined the relevant material available on record. The petitioner was residing abroad, when the impugned order dated 08.09.2023, declaring the petitioner ‘proclaimed offender’ had been passed against him. It also cannot be left unnoticed that as and when the petitioner came 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.

7. 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. Accordingly, plea of the petitioner is accepted. Impugned order dated 08.09.2023 (P-8) is **set aside** to the extent of declaring the petitioner as 'proclaimed offender'. However, it is made clear that upon the petitioner's arrival in India, he shall not be arrested and is directed to be released on bail in the eventuality of his surrender before the trial court and moving an appropriate application for bail on or before **12.05.2025**.

The petitioner shall also furnish fresh 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.

However, this order shall be subject to the payment of Rs.10,000/- 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.

8. **With aforementioned terms, present petition stands disposed of.**

(SANJAY VASHISTH)
JUDGE

March 21, 2025

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*