



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-16868-2025
Decided on : 02.04.2025

Mohammad Salman
Versus
State of Haryana
... Petitioner(s)
... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Akshit Aggarwal, Advocate
for the petitioner(s).

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

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 14.01.2022 (Annexure P-8), whereby the petitioner has been declared as ‘proclaimed person’, on account of his non-appearance in the following FIR:-

FIR No.	Date	Section(s)	Police Station	District
540	21.12.2015	149, 148, 323, 324, 452, 506 of IPC	Indri	Karnal

2. Learned counsel for the petitioner submits that petitioner has been residing with is father, namely; Mohd. Yasin, who is posted as a Rent Collector in the office of Punjab Waqf Board, since the year 2014. Father of the petitioner was posted in District Jalandhar, Punjab from the 2014 to 2019, and thereafter, he was posted to the Headquarters of the Punjab Waqf Board in Chandigarh (SCO No.1062-63, Sector 22-B, Chandigarh). After this, he was transferred to District Ropar, Punjab, where, after staying for a period of one year, again, was transferred to the Headquarters in Chandigarh.

Further submits that father of the petitioner was again transferred to Garshankar, District Hoshiarpur, Punjab, wherein, he stayed for a period of one year and once again, transferred to the Headquarters in Chandigarh. Finally, in the year 2023, father of the petitioner was transferred to District Kapurthala, where, the petitioner has been residing with him since then. Therefore, counsel submits that present petition has not been residing at the address as mentioned in the warrants of arrest since the last 10 years, and thus, he could never gather the knowledge about the pendency of the present proceedings against him.

3. Learned counsel further submits that factum of issuing of warrants of arrest against the petitioner and thereafter, same were being issued on wrong address, can be proved by the summons report dated 02.11.2021, along with order dated 29.11.2021, and summons report dated 01.12.2021 along with order dated 14.12.2021 (appended as Annexures P-4 to P-7, respectively.)

Further submits that in furtherance of the proceedings against the petitioner, Ld. Trial Court declared him as 'proclaimed person' vide impugned order dated 14.01.2022 (P-8). However, when the factum of declaring him as 'proclaimed person' came to the knowledge of the petitioner, he immediately approached this Court by way of present petition.

Besides, it is also relevant to notice that all the other co-accused, already stand acquitted, and thus, the evidence sought to be adduced against the petitioner on subsequent trial, would not in any manner be different from the earlier one, which was adduced during first trial.

Thus, learned counsel 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 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 knowingly evade the proceedings before the trial Court. Learned State counsel further submits that looking at his behaviour, there is no surety that in future, petitioner would not be absent for the purpose of delaying the trial.

6. 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.*

7. I have considered the submissions of both the sides and examined the relevant material available on record. The petitioner has remiss in appearing before the Court due the reasons mentioned here-above, and consequently, impugned order (P-8) declaring the petitioner as ‘proclaimed person’ has 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.

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. Accordingly, plea of the petitioner is accepted. Impugned order dated 14.01.2022 (P-8) is **set aside** to the extent of declaring the petitioner as ‘proclaimed person’, and he is directed to be released on bail, in the eventuality of surrender by him before the trial Court on or before 25.04.2025.

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.

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

(SANJAY VASHISTH)
JUDGE

April 02, 2025

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*