



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

**CRM-M No.17268 of 2025
Date of decision : 28.03.2025**

Baby alias Baby Mall

.....Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Amrit Paul Mahar, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing of order dated 18.11.2024 (Annexure P-8) passed by the learned Judicial Magistrate First Class, Phagwara, District Kapurthala in complaint case bearing NACT No.531 of 2021, dated 22.11.2021, under Section 138 of Negotiable Instruments Act, 1881, titled as Mohinder Paul versus Baby (Annexure P-1), instituted on 22.11.2021 whereby the petitioner has been declared as Proclaimed Person without complying with the provisions of Section 82 of Cr.P.C. Further prayer has been made for staying the operation of impugned order dated 18.11.2024 (Annexure P-8) passed by the learned JMFC, Phagwara, District Kapurthala during the pendency of the present petition.

2. It has been contended by learned counsel for the petitioner that the petitioner was prosecuted in a complaint under Section 138 of Negotiable Instruments Act. He has submitted that the petitioner was summoned by the learned trial Court, however the summons were sent to the petitioner on wrong address. He has submitted that when the petitioner

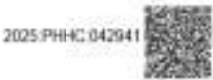


came to know about the case, she approached before the learned Judicial Magistrate First Class, Phagwara by way of filing an application for surrender-cum-bail, however the same was allowed by the learned trial Court vide order dated 21.11.2023 and the petitioner was granted the concession of interim bail and was directed to make payment of interim compensation of 20% of cheque amount within 60 days. He has submitted that thereafter the matter was referred to the Mediation Centre but the settlement could not be effected. The petitioner was regularly appearing before the Court but her counsel was not appearing and misguided her. He has submitted that because of the abovesaid facts the petitioner could not appear before the trial Court and was ultimately declared proclaimed person vide order dated 18.11.2024. He has submitted that the petitioner has been declared proclaimed person in violation of the provisions of Section 82 of Cr.P.C. He has further submitted that the petitioner is ready to surrender and face the trial. He has thus submitted that the petitioner be granted protection for appearing before the trial Court.

3. Notice of motion to official respondent No.1 at this stage.

4. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of respondent No.1-State. He has opposed the submissions made by learned counsel for the petitioner and has stated that the trial Court has rightly declared the petitioner as proclaimed person who remained absent from the Court without any valid reason.

5. After hearing counsel for the parties and perusing the record, it is apparent that the petitioner was prosecuted in complaint filed under Section 138 of Negotiable Instruments Act. The petitioner was granted the



concession of interim bail directing her to make payment of interim compensation of 20% of the cheque amount. As submitted by learned counsel for the petitioner that the petitioner is ready to surrender before the Court and face the trial. Without commenting anything about the authenticity of the ground of absence taken by the petitioner, this Court proceeds to decide the matter as now the petitioner is ready and keen to join the proceedings. So keeping in view the abovesaid facts, the present petition is disposed of and the order dated 18.11.2024 declaring the petitioner as proclaimed person is *set aside* subject to payment of Rs.10,000/- as costs to be paid to the Day Care Centre for Elderly Disabled Home for Old & Destitute People, Sector 15, Chandigarh within a period of 07 days from today. The petitioner is directed to appear before the trial Court within a period of 10 days from today and files appropriate application along with receipt of deposit of above-said costs then the trial Court will admit her to bail subject to its satisfaction during the pendency of trial and proceed with the trial as per law. Petitioner will have protection from arrest for a period of 10 days from today.

6. Needless to say that in case the petitioner fails to comply with the abovesaid direction within the stipulated period, then she would not get benefit of this order and the order dated 18.11.2024 would stand automatically revived and the present petition shall be deemed to have been dismissed.

7. Disposed of in above terms.

28.03.2025

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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No