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

CRM-M-21803-2025**DATE OF DECISION: 30.04.2025****YAHOSHUA****...PETITIONER****Versus****STATE OF PUNJAB AND ANOTHER ... RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. G.S. Randhawa, Advocate for the petitioner(s).

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Section 528 B.N.S.S., of 2023, for quashing of the impugned order dated 06.09.2023, (Annexure P-5), passed by Chief Judicial Magistrate, Gurdaspur in case FIR No. 54 dated 02.05.2022, (Annexure P-1), under section 324, 323, 341, 326 148, 149 IPC at Police Station Dhariwal, District Gurdaspur, vide which the petitioner has been erroneously declared as a proclaimed person without following the due process of law and in violation of the provisions of Section 82/83 of the Code of Criminal Procedure, in the interest of justice.



Learned counsel for the petitioner submits that vide order dated 09.06.2023, it was recorded by the Trial Court that non- bailable warrants issued against the petitioner received back unexecuted, therefore, the petitioner was ordered to be summoned through proclamation under section 82 Cr.P.C., for 06.09.2023 but instead of issuing the fresh non-bailabe warrant against the petitioner the Trial court had summoned the petitioner through proclamation without recording any satisfaction, further, proclamation was issued on 01.08.2023, and same was affected on the same day. As per the impugned order (Annexure P-5), it is crystal clear from the fact that the mandatory period of the 30 days was already elapsed and no further extension was granted to the petitioner to appear in the Trial Court. But, contrary to this aspect it was simple notice of proclamation (Annexure P-7), was issued for appearance to petitioner however there was no time and place to appear specified in publication/proclamation notice

Learned counsel for the petitioner further submits that there was no order passed by the court to publish proclamation notice in any of the newspaper, it was only the order for proclamation by way of publication through affixation by the Competent court on the address of the petitioner which shows that they have not complied with the provisions of 82 Cr.P.C.

It is his further contention that neither at the time of issuance of proclamation/publication nor at the time of declaring the petitioner as proclaimed person, the trial did not record any satisfaction to the effect that the petitioner had absconded or deliberately concealing



himself. It would be further apparent from the record that no steps were taken at any stage by the trial Court to serve the petitioner at his residing address by adopting any other means of communication.

He urges that the petitioner did not had any intention to avoid attendance in the Court proceedings. He undertakes that the petitioner will surrender before the trial Court and shall join the trial proceedings without any delay or default in future.

Notice of motion.

On the asking of the Court, learned State Counsel accepts notice on behalf of the respondent-State, who is not averse to the undertaking given by the petitioner that he will surrender before the trial Court.

Considering the submissions made by learned counsel and also in appreciation of the fact that it will only speed up the proceedings before the Trial Court which is one of the essence as enshrined under Article 21 of the Constitution of India, the petitioner is directed to surrender before the trial Court within a period of 10 days from today and apply for regular bail.

In case, such an application for bail is moved by the petitioner before the learned trial Court, the same shall be considered on the same date and decided in accordance with law.

However, it is made clear that in case the petitioner does not abide by the aforesaid undertaking, the respondent/State shall be at liberty to move an appropriate application for revival of the instant petition.



The aforesaid order/concession to the petitioner shall be subject to payment of costs of Rs.10,000/- to be deposited with Chandi Kusht Ashram Society, (account No.1445265900) (IFSC Code KKBK0004211), Kotak Mahindra Bank, Sector 46-C Chandigarh and a receipt of the same be produced before the Trial Court and only in that eventuality, application of the petitioner for seeking bail be considered and decided on the same day in accordance with law.

The amount so deposited by the petitioner shall not be construed as cost for this order but penalty for stalling the court proceedings by evading himself from trial for a long time.

The instant petition is disposed of in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

30.04.2025
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>