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

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CRM-M-21594-2025 (O&M)
Date of decision: 12.05.2025

Yogesh Kumar**...Petitioner**

Versus

State of U.T., Chandigarh and another**...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Bhanu Chaudhary, Advocate for the petitioner.

Mr. Ganesh Sharma, Addl. P.P., U.T., Chandigarh.

MANISHA BATRA, J. (Oral)**1. CRM-19567-2025**

Allowed as prayed for.

Documents is taken on record as Annexure P-6.

2. CRM-M-21594-2025 (O&M)

The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for quashing of order dated 24.03.2022 (Annexure P-1), passed by the Judicial Magistrate First Class, Chandigarh in case titled as ***Nagma Mehndiratta vs. Yogesh Kumar***, arising out complaint bearing No. NACT/4617 of 2019, filed under Section 138 of the Negotiable Instruments Act (*for short 'N. I. Act'*), whereby the petitioner had been declared a proclaimed person.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in the aforementioned complaint. The petitioner had appeared before the Court concerned and was granted concession of bail. He was regularly appearing before the learned trial Court. The case was fixed for amicable

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settlement in mediation but the same could not be materialized. The case was then fixed for 01.04.2020. However, due to outbreak of Covid-19 pandemic, the petitioner could not appear before the learned trial Court and subsequently, he was not informed about the status of the case by his counsel. It is further submitted that the petitioner is having disability to the quotient of 90% and was suffering from several ailments and due to the said fact, he could not appear before the learned trial Court, which resulted into cancellation of his bail and then into his declaration as a proclaimed person. Even otherwise, the petitioner had been declared a proclaimed person without following the proper procedure prescribed under Section 82 Cr.P.C. He is ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

4. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

5. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the trial Court from the date of initiating proceedings under Section 82 Cr.P.C. as against the petitioner till the date of declaring him a proclaimed person, I am of the considered opinion that the impugned order dated 24.03.2022 suffers from some illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

6. There are catena of judgments of different High Courts discussing the requirements necessary for issuance and publication of proclamation against an absconder under Section 82 Cr.P.C. and for declaring him as a proclaimed person/offender. These requirements have been discussed from time to time in ***Rohit Kumar Vs. State of Delhi : 2008 CrL J. 2561***, ***Bishundayal Mahton and others Vs. Emperor : AIR 1943 Patna 366***, ***Devender Singh Negi Vs. State of***

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U.P. : 1994 Cri LJ (Allahabad HC) 1783, Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826, Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339, Dilbagh Singh Vs. State of Punjab : (P&H) 2015 (8) R.C.R. (criminal) 166, Ashok Kumar Vs. State of Haryana and another : 2013 (4) RCR (Criminal) 550, Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368, Birad Dan Vs. State : 1958 CriLJ 965, Negi alias Debu Vs. State of U.P. and another, 1994 Cri LJ 1783 and Pal Singh Vs. The State : 1955 CriLJ 318.

7. After going through the material placed on record as well as the copies of zimini orders passed by the trial Court, it is revealed that on 15.11.2021, since the non-bailable warrants issued against the petitioner were received back unserved, the trial Court had ordered for issuance of proclamation against him for 07.02.2022. When the case was taken up on 07.02.2022, the proclamation was received executed. A perusal of the statement of the serving police official reveals that the proclamation was duly executed on 07.01.2022. However, instead of declaring the petitioner as a proclaimed person in pursuance of the proclamation issued against him, the learned trial Court had adjourned the case to 24.03.2022 awaiting his presence, which was not in consonance with the provisions of Section 82 of Cr.P.C. Once the proclamation was received duly executed on 07.02.2022, the Court concerned should have declared the petitioner a proclaimed person on that date itself and if it had opted to adjourn the case, a fresh proclamation was required to be issued. Reliance in this regard can be placed upon ***Devendra Singh Negi alias Debu Vs. State of U.P. and another : 1994 CriLJ 1783*** and ***Pal Singh Vs. The State : 1955 CriLJ 318.***

8. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 24.03.2022 (Annexure P-1),

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passed by the Judicial Magistrate First Class, Chandigarh in case titled as ***Nagma Mehndiratta vs. Yogesh Kumar***, arising out complaint bearing No. NACT/6503 of 2019, filed under Section 138 of the N. I. Act, whereby the petitioner had been declared a proclaimed person., is quashed with all consequential proceedings arising therefrom.

9. Keeping in view the fact that the petitioner is ready to join the Court proceedings which would obviously help in speedy conclusion of trial, he is directed to surrender before the learned trial Court within a period of 15 days from today and on doing so, the learned trial Court shall release him on bail, subject to his furnishing fresh personal/surety bonds to its satisfaction.

10. Till the appearance of the petitioner before the learned trial Court, his arrest shall remain stayed.

11. It is made clear that in case the petitioner fails to appear before the learned trial Court within the stipulated time, this petition shall be deemed to be dismissed.

12. However, this relief shall be subject to payment of cost of Rs. 20,000/-, to be deposited by the petitioner with the learned trial Court, which shall be disbursed to respondent No.2/complainant on her appearance.

12.05.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No