



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-23647-2025
Decided on : 05.05.2025

Gurmukh Singh
Versus
State of Punjab and another
... Petitioner(s)
... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Suresh Singla, Advocate
for the petitioner(s).
Mr. Luvinder Sofat, Sr. DAG, Punjab.

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 26.11.2024 (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
60	13.06.2019	452, 323, 506, 34 IPC	Sadar Ahmedgarh	Malerkotla

2. Learned counsel for the petitioner submits that during the course of investigation in the aforementioned FIR, the petitioner was found innocent by the investigating agency, and as a result, his name was placed in column No.2 at the time of filing of the challan, signifying that no sufficient evidence was found to prosecute him. However, subsequently, the prosecution moved an application dated 14.10.2022 under Section 319 Cr.P.C. seeking the summoning of the petitioner as an additional accused, purportedly on the basis of evidence that emerged during trial. Acting upon the said application,

the learned Trial Court, vide order dated 13.12.2022 (Annexure P-2), summoned the petitioner to face trial in the case.

Further submits that in pursuit of better prospects and with the aim of securing a stable future, the petitioner had applied for an Australian visa, which was initially granted on 27.10.2020 (Annexure P-3). Thereafter, the said visa was duly extended from 09.03.2023 to 15.03.2025, as is evident from the application and documents appended with the present petition as Annexure P-4. Acting upon the grant and extension of the visa, the petitioner legally travelled to Australia and shifted there on 28.01.2023.

3. Learned counsel further submits that all proceedings subsequently conducted before the learned Trial Court, including those leading to the issuance of the impugned order dated 26.11.2024 (Annexure P-8), were held in the absence of the petitioner, without any proper service of notice or intimation to him. Therefore, the impugned order, which declared the petitioner a 'proclaimed person', is patently illegal and unsustainable in the eyes of law, as the mandatory requirements under Section 82 Cr.P.C. were not complied with in their true letter and spirit. No effective effort was made to serve notice upon the petitioner at his known foreign address, nor was any due publication effected to bring the proceedings to his knowledge. Consequently, the order is liable to be set aside.

Further submits that 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. 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 26.11.2024 (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 17.05.2025.

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.

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

(SANJAY VASHISTH)
JUDGE

May 05, 2025

J.Ram

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