



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

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**CRM-M-24424-2025
Decided on : 07.05.2025**

Mahendra Pratap Tandon alias Mahinder Tandon

... Petitioner(s)

Versus

State of Haryana and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Parunjeet Singh, 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 17.02.2025 (Annexure P-12), whereby the petitioner has been declared as 'proclaimed person', on account of his non-appearance in Complaint No. NACT-151-2022, titled as, "M/s Surgicraft INC v. Esteem Industries Inc. and another" (Annexure P-2).

Besides, prayer has also been made for quashing of certain other orders, which are mentioned in the head note as well as in the prayer clause of the present petition.

2. Learned counsel for the petitioner submits that complainant – respondent No.2 had filed a complaint u/s 138 of the Negotiable Instruments Act, 1881 (in short, 'NI Act'), before the learned trial Court, Bhiwani, for

dishonoring of cheque bearing No.219443, dated 10.11.2020, for an amount of Rs.4,15,060/-.

Further submits that petitioner is an old aged person, and resident of District Solan, Himachal Pradesh. He had never received any summons or notice in the case, pending before the trial Court. Even the service of bailable or non-bailable warrants of arrest were also never served upon him, as the case has been registered in the District Bhiwani, which is far away from the place, where the petitioner is residing at present. Even during the proclamation proceedings, although petitioner was not found present at the address of Esteem Industries, notice was affixed on the wall of said Industry, whereas, due to advance age of the petitioner (76 years), he is unable to work and visit the industry/factory premises (address of which mentioned in the complaint filed before the learned trial Court)..

3. Learned counsel further submits petitioner is a senior citizen of the age of 76 years and he resides in District Solan, Himachal Pradesh, thus, due to this reason, he could not appear before the trial Court due to which, vide impugned order dated 17.02.2025 (P-12), he was declared as 'proclaimed person'. However, as and when, he came to know about this order, he immediately approached this Court by way of present quashing 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 only on one date i.e. on 17.02.2025, when impugned order declaring the petitioner ‘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. Consequently, orders dated 15.05.2023 (Annexure P-6) and 11.11.2024 (Annexure P-9) shall stand rendered inoperative, as these were consequential in nature to the impugned proceedings now being partly set aside. Furthermore, the impugned order dated 17.02.2025 (Annexure P-12), passed by the learned Trial Court, is hereby **set aside** to the extent it declares the petitioner as a ‘proclaimed

person', as the same does not appear to have been passed in full compliance with the statutory mandate. Besides, FIR No.0069, dated 07.04.2025, u/s 209 of BNS, 2023, registered at P.S. Industrial Area, Bhiwani, Distt. Bhiwani (Annexure P-1), and all consequential proceedings are also ordered to be quashed *qua* the petitioner. Accordingly, it is directed that the petitioner shall be released on bail, subject to his surrender before the learned Trial Court on or before 23.05.2025, and furnishing of requisite bail and surety bonds, as per the satisfaction of the said 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.

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

(SANJAY VASHISTH)
JUDGE

May 07, 2025

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No