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

**CRM-M-34318-2025 (O&M)
Date of decision: 04.07.2025**

Arkin

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.K. Saini, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

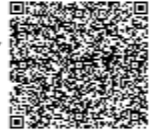
1. Present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking quashing of the order dated 14.10.2022 (Annexure P-13) passed by learned Chief Judicial Magistrate, Faridkot, in FIR No.270 dated 14.12.2017 under Sections 420 & 120-B of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station City Faridkot, District Faridkot, vide which the petitioner was declared as proclaimed person along with all the consequential proceedings emanating therefrom.

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2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner joined the company run by main accused Neeraj Thatai @ Neeraj Arora i.e. M/s Nature Height Infra Limited on 18.09.2012 as Computer Operator/Data Entry Operator and she worked in the said company till 24.06.2016. Thereafter, vide resolution dated 15.06.2015, she was authorized to sign all the legal agreements and No Objection Certificates on behalf of the company. It is further contended that on the statement of one Narinder Kumar, an FIR No.135 dated 03.06.2016 was registered under Sections 420 & 120-B of IPC, at Police Station City-I, Abohar, District Fazilka against owner of the company, namely Neeraj Arora, in which vide DDR No.30 dated 26.06.2016, the petitioner was nominated as accused and offence under Sections 465, 467, 468, 471 of IPC were added. Even in the complaints filed by aggrieved persons namely Nachattar Singh and Mohinder Singh Othi, there is no allegation against the petitioner regarding duping their money. On 14.12.2017, aforesaid Nachattar Singh got registered the FIR (*supra*) against the petitioner and others. He further contends that challan was presented on 22.09.2021 and since no notice was served upon the petitioner, she was not aware about presentation of challan, therefore, could not appear before learned trial Court. He also contends that on account of her non-appearance, learned trial Court declared the petitioner as proclaimed person vide order dated 14.10.2022 (Annexure P-13) and the intimation was further sent to

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SHO concerned for taking further necessary action, in accordance with law. Aggrieved by the said impugned order dated 14.10.2022 (Annexure P-13), the petitioner has approached this Court by way of instant petition.

3. Learned counsel for the petitioner submits that the impugned order is liable to be set aside on the ground that the mandate of Section 82 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') (*now Section 84 of BNSS*) has not been followed in its letter and spirit by learned trial Court and the petitioner has been declared as proclaimed person on 14.10.2022. In support of his arguments, learned counsel for the petitioner relies upon the judgment passed by this Court in ***Sonu Vs. State of Haryana, 2021 (1) RCR (Cri.) 319*** and the judgment passed by the Gujarat High Court in ***Govindbhai Patel Vs. State of Gujarat, 2004 (4) RCR (Criminal) 830***.

4. Notice of motion.

5. Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court accepts notice on behalf of the respondent-State and supports the order passed by learned learned trial Court, by contending that the petitioner did not put in appearance before learned trial Court intentionally and deliberately and, therefore, having left with no other option, proclamation was issued to secure her presence.

6. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties,



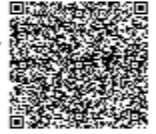
the matter is taken up for final disposal.

7. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

8. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab, 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. (*now Section 84 of BNSS*) and non-recording of the satisfaction itself makes such order suffering from incurable illegality. The conditions specified in Section 82(2) of Cr.P.C. (*now Section 84(2) of BNSS*) for the publication of a proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation and proceedings subsequent thereto a nullity.

9. Keeping in view the aforesaid facts and circumstances of the case, present petition is allowed and the impugned order dated 14.10.2022

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(Annexure P-13), vide which the petitioner was declared proclaimed person as well as all the consequential proceedings emanating therefrom, are hereby set aside subject to payment of Rs.20,000/- as costs to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh within a period of two weeks from today, for wasting precious time of the Court.

10. The petitioner is directed to appear before learned trial Court within a period of four weeks from today and on her doing so, she shall be admitted to bail on her furnishing bail/surety bonds to the satisfaction of learned trial Court.

11. The receipt of payment of costs imposed upon the petitioner must be presented before learned trial Court. Learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.

12. It is clarified that in case the petitioner fails to surrender before learned trial Court within the stipulated period, interim protection granted by this Court shall be deemed to be vacated.

04.07.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No