



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

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CRM-M-41130-2025

Date of decision : 31.07.2025

Indu Badhan

....Petitioner

V/S

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Chander Shekhar Sharma, Advocate for the petitioner.

Mr. Anup Singh, A.A.G., Punjab.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of order dated 27.11.2024 (Annexure P-15), whereby the bail bonds of the petitioner have been cancelled and non-bailable warrants have been issued against her and order dated 25.04.2025 (Annexure P-18), whereby the petitioner has been declared as proclaimed person in case FIR No.42 dated 28.08.2020 registered under Section 406 & 498-A of Indian Penal Code, 1860 at Women Police Station, District Police Commissionerate, Jalandhar and all subsequent proceedings arising therefrom qua the petitioner.

2. Brief facts of the case are that the above said FIR was lodged by complainant-Minakshi Badhan against her husband and mother-in-law (the present petitioner) levelling allegations of cruelty and demand of dowry etc. The trial was commenced and the petitioner was granted regular bail vide order dated 19.05.2021. During trial, the

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petitioner had filed application before the Trial Court seeking permission to visit abroad (Canada) for the purpose of attending birthday function of her grandson. The said application was allowed, vide order dated 05.04.2024, passed by learned Judicial Magistrate First Class, Jalandhar and permission was granted to the petitioner to visit abroad w.e.f. 20.04.2024 to 31.05.2024. However, the petitioner did not return India and filed an application for extending the time to stay in Canada till 30.08.2024 because of her ill health. The said application was dismissed, vide order dated 07.11.2024 passed by learned Judicial Magistrate First Class, Jalandhar and the petitioner was directed to appear before the Trial Court on or before the next date of hearing i.e. 27.11.2024. When the petitioner failed to appear before the Trial Court on 27.11.2024, her bail bonds and surety bonds have been cancelled and forfeited and non-bailable warrants have been issued against her and on her non-appearance, the petitioner has been declared as proclaimed person, vide order dated 25.04.2025, by learned Judicial Magistrate First Class, Jalandhar. Hence this petition.

3. Learned counsel for the petitioner submits that since the date of commencement of the trial, the petitioner has been regularly appearing before the Trial Court and she had gone Canada with the permission of the Trial Court. During her stay at Canada, she was unfortunately fell down which led to severe sprain/strain to lumber spine. She was under physiotherapy treatment for the same and advised 4 to 6 weeks rest. She was also advised not to travel, prolonged sitting, standing, walking as it can make her condition worse. Due to the said



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reason, the petitioner could not return India in a stipulated period. He submits that the petitioner has also moved an application for extension of time to stay at Canada which was dismissed by the Trial Court. He further submits that the petitioner is a victim of circumstances and her absence was unintentional. He also submits that the petitioner is ready and willing to join the trial proceedings and undertakes to be present before the Trial Court on each and every date.

4. On receipt of advance copy of the petition, learned State counsel has put in appearance and submits that the impugned orders have been passed on the sole ground of the absence of the petitioner.

5. I have heard learned counsel for the parties and perused the paperbook.

6. Admittedly, the petitioner was given permission by the Trial Court to visit Canada w.e.f. 20.04.2024 to 31.05.2024 and she failed to return India within a stipulated period. Although, the petitioner has made application for extension of time to stay in Canada, however, the same has been dismissed, vide order dated 07.11.2024, passed by learned Judicial Magistrate First Class, Jalandhar. The concluding para of the said order reads as under :-

“Heard. File perused. Perusal of application shows that accused Indu Badhan is seeking permission to stay abroad till 30.08.2024. Today is 07.11.2024 but accused has failed to return back to India. She has placed on record medical certificate as per which she was advised physiotherapy for a period of 4 to 6 weeks from 25.07.2024 and the said period has already passed. But accused has failed to appear till date without giving any reason. Thereafter, the present application for extending her stay stands dismissed. It is further made clear that if accused Indu Badhan fails to appear before this court till next date



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of hearing i.e. on 27.11.2024, then the surety bonds furnished by her for going abroad will be forfeited to the State. Now case is adjourned to 27.11.2024 for awaiting appearance of accused Indu Badhan.”

7. The abovesaid order clearly shows that as per medical certificate, the petitioner was advised physiotherapy for a period of 4 to 6 weeks from 25.07.2024 and she herself sought permission from the Trial Court by filing an application to stay abroad till 30.08.2024, however, she did not return India after elapse of said period. In the abovesaid order, it was also made clear by the Trial Court that if the petitioner fails to appear before the Trial Court till the next date of hearing fixed before it i.e. on 27.11.2024, then the surety bonds furnished by the petitioner for going abroad will be forfeited to the State, however, the petitioner did not appear before the Trial Court on 27.11.2024.

8. Perusal of order dated 07.11.2024 also shows that on the said date, the counsel representing the petitioner before the Trial Court was also present in the Court, therefore, he must have informed the petitioner about the dismissal of her application seeking extension of time to stay in Canada and her appearance before the Trial Court was required on the next date of hearing i.e. 27.11.2024. Despite that, the petitioner did not appear before the Trial Court on the date fixed. Therefore, her bail/surety bonds have rightly been cancelled and forfeited by the Trial Court, vide order dated 27.11.2024 and non-bailable warrants have been issued against her for 27.01.2025.

9. On 27.01.2025, fresh non-bailable warrants were issued against the petitioner for 24.02.2025. On 24.02.2025, due to non-

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appearance of the petitioner, proclamation was ordered to be issued against her by service official till 24.03.2025 for her presence on 25.04.2025. Proclamation issued against the petitioner received back duly effected and on 25.04.2025, due to non-appearance of the petitioner before the Trial Court, she has been declared as proclaimed person.

10. From the perusal of the facts mentioned above, it is clear that petitioner has thoroughly misused the process of law and intentionally and deliberately did not return India, therefore, she has rightly been declared as proclaimed person vide order dated 25.04.2025.

11. Further, a perusal of order dated 14.05.2024 (Annexure P-6) shows that charges could not be framed against the petitioner on account of her prolonged stay in abroad, despite there being stipulated sanctions of trial Court orders and in fact opinion of a physiotherapist qua medical condition of the petitioner could not appeal this Court in absentia of any registered medical practitioner/doctor to justify the over-stay of the petitioner in Canada, therefore, the trial Court has rightly used the coercive measures by issuing non-bailable warrants just to ensure presence of the petitioner to face trial.

12. Furthermore, the petitioner has been declared proclaimed person on 25.04.2025 and instead of appearing/surrender before the Trial Court, she has filed the instant petition before this Court on 28.07.2025 i.e. after a lapse of more than 03 months which also shows that the petitioner voluntarily disengaged herself with the trial for delaying the trial proceedings and has made a mockery of law.



13. Keeping in view the peculiar facts and circumstances of the case, I do not find any ground to interfere in the impugned orders dated 27.11.2024 (Annexure P-15) and 25.04.2025 (Annexure P-18) passed by learned Judicial Magistrate First Class, Jalandhar. Hence, the present petition is dismissed.

31.07.2025

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(NAMIT KUMAR)
JUDGE

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



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