



CRM-M-48854-2025

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

130

CRM-M-48854-2025 (O & M)
Date of decision: 02.09.2025

Ram Chander

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rajpal, Advocate and
Mr. Ritesh Tomar, Advocate,
for the petitioner.

Mr. M.S.Bajwa, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition filed Section 528 of the BNSS, 2023 for quashing the order dated 09.11.2023, Annexure P-1, passed by learned Judicial Magistrate Ist Class, Abohar, whereby the petitioner has been declared as proclaimed person in NACT/345/2023, titled as 'Om Parkash vs. Ram Chander, filed under Sections 138 and 142 of the NI Act, alongwith subsequent proceedings arising therefrom.

2. Learned counsel submits that the petitioner had never received any notice/bailable warrant/non-bailable warrant issued by the trial Court. Reference is made to the zimni order dated 14.09.2023 wherein it has recorded that arrest warrants issued against him received back unexecuted as his house was lying locked. The petitioner was

CRM-M-8495-2024

posted at Fazilka, therefore, it is not a case of evading, absconding or concealing himself. It is his submission that proper procedure as envisaged under Section 82 Cr. P.C. was not followed, inasmuch as there was no knowledge to the petitioner about appearance. He is suffering from various ailments, he having undergone brain surgery and his heart is working 30% less than normal. His absence is neither wilful nor deliberate, rather on account of the reason aforesaid. He further contends that the petitioner is ready and willing to join the proceedings and it is prayed that one opportunity may be granted to him to surrender before the learned trial Court. To buttress his submission, reliance is placed on the judgments of this Court in **Gurbir Singh Mundi vs. State of Punjab and another** CRM-M-49283-2021, decided on 16.12.2021.

3. Learned State counsel submits that the petitioner has rightly been declared proclaimed person for having absented.

4. No order prejudicial to the rights of respondent No.2 is being proposed to be passed by this Court, thus, there is no requirement of effecting service upon him.

5. In the case of **Gurbir Singh Mundi** (supra), it was held that provisions of Section 82(2) Cr.PC. are to be mandatorily complied with cumulatively and not alternatively. The Court had quashed the order declaring the petitioner therein as proclaimed person on the ground that declaration was not read publicly in some conspicuous place of town or village, in which the accused ordinarily resides.

6. Heard.

CRM-M-8495-2024

7. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule of law, as also to ensure finalization of the proceedings.

8. Adverting to the facts of the present case, the reasons for non-appearance of the petitioner that led to the passing of the impugned order, appear to be justified. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court and such an absence cannot necessarily be construed as deliberate and wilful. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering the fact that the absence of the petitioner was not wilful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to him, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help in expediting the trial. This Court in light of the judgment referred to above being applicable to the instant case, finds that the ends of justice would be adequately met if the present petition is allowed.

9. In view of the afore-mentioned judgment and the facts and circumstances of the case, the impugned order dated 09.11.2023, Annexure P-1, is set aside, subject to surrender by the petitioner before the trial Court on or before 20.09.2025 and payment of costs of Rs.10,000/- to respondent No.2. On furnishing bail/surety bonds, the trial Court shall release him on bail subject to its satisfaction. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and

CRM-M-8495-2024

every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

10. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

02.09.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No