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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 1868/2025**

SACHIN BIDANI

.....Petitioner

Through: Mr. Prashant Mendiratta, Ms. Veenu Singh, Mr. Rohit Ghadia, Advocates

versus

STATE (NCT OF DELHI) & ORS.

.....Respondents

Through: Mr. Hemant Mehla, APP for the State with Insp. Asha, PS CWC Nanakpura
Mr. Anil Kumar Saxena, SPC with
Mr. Rajendra Rawat, GP for R-2 & 3

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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24.04.2025

CRL.M.A. 8453/2025 (Exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Petitioner shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

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4. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ is directed against order dated 28th March, 2017, passed by the Metropolitan Magistrate First Class, (Mahila Court) South-West District, Dwarka, New Delhi in Cr. Case No. 6597/2017 titled as

¹ "BNSS"



“State v. Sachin Bidani & Ors.”, wherein the Petitioner has been declared as a Proclaimed Absconder under Section 82 of the Code of Criminal Procedure, 1973.²

5. The Petitioner is an accused in FIR No. 22/2015, registered under Sections 498A, 406 and 34 of the Indian Penal Code, 1860³ at P.S. CWC, Nanakpura.

6. Mr. Prashant Mendiratta, counsel for the Petitioner, contends that the Trial Court did not follow the proper procedure before declaring the Petitioner a Proclaimed Absconder. He explains that the Petitioner emigrated to the United States on 7th September, 2013 and has since become a U.S. national, acquiring citizenship on 23rd July 2021. The Petitioner has been residing in the United States and has not returned to India since. To support this claim, he places reliance on the copies of the stamped pages of the Petitioner’s Indian Passport, duly stamped by the immigration authorities in both India and the United States, annexed to the petition as Annexure P-2.

7. Mr. Mendiratta further emphasizes that on 26th September, 2016, the Trial Court issued non-bailable warrants⁴ against the Petitioner, which were sought to be executed through the concerned SHO. He notes that the Trial Court, in this order, categorically acknowledges the contention of the parties that the Petitioner was “*staying outside the country*”. He argues that, given this fact, the Trial Court could not have directed the SHO to execute the NBWs. He places reliance on the Guidelines dated 11th February 2009, issued by the Ministry of Home Affairs, which outline the procedures for service of summons/notices to persons residing abroad, to contend that the

² “Cr.P.C.”

³ “IPC”



execution of NBWs against the Petitioner should have been carried out by the Ministry of Home Affairs through the Indian Mission or Embassy in the United States.

8. Additionally, Mr. Mendiratta points out that the request for the issuance of the NBWs was made the day after the order dated 26th September, 2016, *i.e.*, on 27th September, 2016. He argues that under these circumstances, it cannot be concluded that the Petitioner deliberately evaded the process. Furthermore, he highlights that the email communications sent by the SHO of the Crime Women Cell were addressed to an incorrect email ID, sachinbidani2005@gamil.com, where the domain “gmail.com” was inadvertently mentioned as “gamil.com.” This error is evident in email communications purportedly sent on 25th February, 2016 and 13th April, 2016.

9. Relying on the aforesaid facts and documents, Mr. Mendiratta submits that the entire procedure followed for the execution of the process under Section 82 Cr.P.C. was flawed, without proper application of judicial mind and in violation of established legal principles. Consequently, he argues that the declaration of the Petitioner as a Proclaimed Absconder should be set aside. Mr. Mendiratta states that, once this declaration is quashed, the Petitioner will appear before the Trial Court and apply for regular bail.

10. Mr. Hemant Mehla, APP for the State, opposes the application and argues that the Petitioner has intentionally evaded the process of the Court. He submits that the Petitioner absconded and left the country knowing that he had been prosecuted. Additionally, Mr. Mehla contends that the Petitioner never informed the authorities about the change in his address. He

⁴ “NBWs”



argues that in the absence of any concrete proof establishing that the Petitioner had left the country, the Trial Court rightly issued directions for the execution of the NBW through the SHO. He further contends that there is no infirmity in the procedure followed by the Trial Court, and therefore, the declaration of the Petitioner as a Proclaimed Absconder should stand as per the law. Furthermore, Mr. Mehla states that the Petitioner should be directed to surrender his passport, given that he is a U.S. national. He argues that the Petitioner's presence before the Trial Court can only be ensured if such a condition is imposed.

11. The Court has considered the aforementioned contentions.

12. The submissions made by Mr. Mendiratta, as outlined above, clearly disclose that there was indeed a procedural infirmity in the process adopted by the Trial Court. The fact that the Petitioner had left the country is adequately substantiated by his passport. Therefore, at the time the NBW was issued, the Petitioner was not residing within the country. In such circumstances, the execution of the NBW through the SHO was not feasible, and as a result, the subsequent steps for executing the process under Section 82 Cr.P.C., are, in the opinion of the Court, procedurally flawed. Additionally, the email communications were sent to an incorrect email ID, and the Court finds merit in Mr. Mendiratta's contention that the Petitioner may not have been aware of the process issued against him.

13. In any event, the Petitioner has now expressed inclination to join the proceedings and appear before the Trial Court. Thus, having regard to the aforementioned circumstances, the petition is allowed and the impugned order dated 28th March, 2017, declaring the Petitioner as Proclaimed Absconder is set aside.



14. The consequential Look Out Circular issued against the Petitioner is also cancelled.
15. With the above directions, the present petition is disposed of.

SANJEEV NARULA, J

APRIL 24, 2025/ab