



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

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**CRM-M-28465-2026
Decided on : 19.05.2026**

M/s Emm Emm Fuels and another . . . Petitioner(s)
Versus
State of Punjab and another . . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Vipin Mahajan, Sr. Advocate with
Mr. Ekakshra Mahajan Mandhar, Advocate
for the petitioner(s).

Mr. Vinay Malhotra, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. Instant petition under Section 528 of the BNSS, 2023 (earlier Section 482 Cr.P.C.), has been filed for seeking quashing of order dated 07.05.2026 (Annexure P-4), passed by the learned Judicial Magistrate Ist Class, Amritsar, in criminal complaint case bearing No. NACT/4802/2023, titled as, "*HDFC Bank Ltd. v. M/s Emm Emm Fuels and another*", (Annexure P-1), instituted under Section 138 of the Negotiable Instruments Act, 1881 (in short, 'NI Act'), along with all consequential proceedings arising therefrom, whereby, petitioner has been declared as a 'Proclaimed Person' allegedly without following the due procedure of law.

2. Learned Senior counsel for the petitioners submits that complainant/respondent No.2 instituted complaint bearing No. NACT/4802/2023 under Section 138 of the Negotiable Instruments Act, 1881 and after recording preliminary evidence, summoning order dated 11.07.2025 (Annexure P-2) came to be passed against the petitioners.

Learned Senior counsel further submits that the learned trial Court straightway resorted to coercive steps without properly serving the petitioners and without following the due procedure of law. In support of his contentions, learned Senior counsel refers to the zimni orders appended with the petition as Annexure P-3.

3. Learned Senior counsel for the petitioners further argues that the learned trial Court, without adhering to the mandate and due procedure prescribed under law, initiated proceedings under Section 84 of BNSS, 2023 (earlier Section 82 Cr.P.C.) and ultimately, vide impugned order dated 07.05.2026 (Annexure P-4), declared the petitioners as 'Proclaimed Persons'.

It is, thus, contended that the absence of the petitioner was neither intentional nor deliberate, but occurred due to the reasons noticed here-above. Moreover, petitioner is willing to join the proceedings and undertakes to appear before the learned trial Court, if granted an opportunity, subject to any condition(s) that may be imposed by this Court.

4. On noticing the contention of petitioner's counsel, this Court is also not required to examine the sustainability of the order vide which, petitioner was declared 'proclaimed person', however, inclination has been expressed by the petitioner himself that in case one opportunity is granted for releasing the petitioner on bail, by protecting him from arrest, he shall not absent himself in future without prior permission from the Court, and shall fully cooperate for early disposal of the trial.

5. On the other hand, learned State counsel 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 due the reasons mentioned here-above, and consequently, impugned order (P-4) declaring the petitioner as ‘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 immediately 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. Accordingly, plea of the petitioner is accepted. Impugned order dated 07.05.2026 (P-4) is **set aside** to the extent of declaring the petitioner as ‘proclaimed person’, and he is directed to be released on bail, in the eventuality of surrender by him before the trial Court on or before **05.06.2026**.

The petitioner shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial 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.

However, this order shall be subject to the payment of Rs.25,000/- as costs, to be deposited by the petitioner in an Old Age Home of the area, as may be decided by the learned Trial Court. The Trial Court shall

also specify the time frame within which such costs will be required to be deposited, but not more than two weeks, failing which this order would not be of any advantage to the petitioner.

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

Pending misc. application(s), if any, also stand(s) disposed of.

(SANJAY VASHISTH)
JUDGE

May 19, 2026

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*