



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

140

CRM-M-28883-2026
Decided on : 21.05.2026

Ashu Kohli

... 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. Utkrant Mahajan, Advocate and
Mr. Randeep Singh, 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 05.05.2026 (Annexure P-5), passed by learned Judicial Magistrate Ist Class, Gurdaspur, in case bearing No.NACT/422/2025, dated 01.07.2025, titled as, "*Ashok Kumar v. Ashu Kohli*", in complaint u/s 138 of Negotiable Instruments Act, 1881 (for brevity, 'NI Act'), whereby, petitioner has been declared as 'Proclaimed Person', allegedly without following the due procedure of law.

2. It is a unique case where a cheque bearing No. '206120, dated 26.05.2025, amounting to Rs.16.00 lakhs, having been issued by the petitioner – Ashu Kohli to her father, respondent No.2 – Ashok Kumar, got bounced and consequently, her father has filed a complaint u/s 138 of NI Act.

Learned Senior counsel for the petitioner submits that petitioner through her counsel appeared before trial Court and a statement was made that petitioner has been granted anticipatory bail by learned Sessions Judge,

but she could not surrender before the Court, as she has been declared as 'Proclaimed Person' in another complaint case, filed by respondent No.2 herein, who is none else, but her father.

It is further submitted that it is evident from the record that without ensuring due compliance of the mandatory provisions of Section 82 Cr.P.C. (Section 84 of BNSS, 2023), which require publication, affixation and proper service of proclamation, and even without recording sufficient 'reasons to believe' that the petitioner had absconded or was concealing himself, learned Magistrate, vide impugned order dated 05.05.2026 (P-5), mechanically declared the petitioner as a 'proclaimed offender/person'.

It is, thus, contended that the absence of the petitioner was neither intentional nor deliberate, but occurred due to the reasons noticed here-above. Learned counsel further submits that the 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.

3. 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 her from arrest, she shall not absent herself in future without prior permission from the Court, and shall fully cooperate for early disposal of the trial.

4. On the other hand, learned State counsel, who appears on advance notice, opposes the request of the petitioner by submitting that petitioner does not deserve any sympathy, because, she 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.

5. 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*).

6. 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-5) declaring the petitioner as ‘proclaimed person’ has been passed against her. 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 her inclination to submit herself before the trial Court.

7. 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 05.05.2026 (P-5) is **set aside** to the extent of declaring the petitioner as ‘proclaimed person’, and she is directed to be released on bail, in the eventuality of surrender by her before the trial Court/Illaqa Magistrate/Duty Magistrate on or before **08.06.2026**.

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 she 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.10,000/- 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.

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

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

(SANJAY VASHISTH)
JUDGE

May 21, 2026

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*