



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

133

CRM-M-23659-2025
Decided on : 05.05.2025

Amal Kumar Verma

... Petitioner(s)

Versus

State of Punjab and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Sandeep Arora, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, Sr. 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 quashing of the order dated 12.03.2025 (Annexure P-5), whereby the petitioner has been declared as 'proclaimed person', on account of his non-appearance in Criminal Complaint Case No.NACT/5676 of 2017, instituted on 21.08.2017, titled as, "Neelam Devi v. M/s UP Infra Estate Pvt. Ltd. And others", u/s 138 of Negotiable Instruments Act, 1881 (in short, 'NI Act') (Annexure P-1).

2. Learned counsel for the petitioner submits Criminal Complaint bearing No. NACT/5676 of 2017, instituted at the instance of respondent No.2, vide order dated 05.12.2017, learned JMIC, Jalandhar, issued summoning order and thereafter, petitioner was regularly attending the proceedings before the trial Court.

As per the allegations, cheque was issued on 31.03.2017 by the authorized signatory on behalf of Managing Director of M/s UP Infra Estate

Pvt. Ltd., whereas, petitioner had already resigned from said Company on 23.03.2017, i.e., prior to issuance of cheque in question. Besides, resignation was also submitted to the Registrar of Companies well in time. Thus, petitioner was neither the signatory of the cheque nor he was Director of the Company at the time of issuance of cheque in question, also he had no role to play in the affairs of the company. In fact, one Manoj Dwivedi, who was Managing Director of the company, is the responsible person for day-to-day affairs and dealing of the company with his customers. Therefore, said Manoj Dwivedi is the solely responsible person with regard to issuance of the cheque in question.

3. Learned counsel further submits that now the petitioner has come to know about the impugned order dated 12.03.2025 (P-5), passed by learned JMIC, Jalandhar, vide which, he has been declared as 'proclaimed person'. Further submits that said impugned order (P-5) has been passed totally in a wrong and illegal manner and without comply with the provisions of Section 84 of BNSS, 2023. In support of his contention, learned counsel refers to zimni orders passed by the trial Court from time to time, which are appended along with petitioner as Annexure P-6.

Further submits that when the factum of declaring him as 'proclaimed person' came to the knowledge of the petitioner, he immediately approached this Court by way of present petition.

Thus, learned counsel submits that in case one opportunity is granted for releasing the petitioner on bail, by protecting him from arrest, the petitioner undertakes that he would not absent himself in future, without there being prior permission from the Court, and fully cooperate for early disposal of the trial.

4. Notice of motion.

5. Learned State counsel puts an appearance, and 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-5) 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 12.03.2025 (P-5) 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 17.05.2025.

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.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.

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

**(SANJAY VASHISTH)
JUDGE**

May 05, 2025

J.Ram

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