



139

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

CRM-M-22251-2025

Date of Decision: 29.04.2025

AVTAR SINGH

....Petitioner(s)

VERSUS

STATE OF HARYANA AND ANOTHER

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Deepak Kumar, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

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 10.02.2025 (Annexure P-4), whereby the petitioner has been declared as 'proclaimed person', on account of his non-appearance in complaint No.NACT-630/2021 dated 10.06.2021 titled as 'Sahab Ram Vs. Avtar Ram' filed by respondent No.2.

2. Learned counsel for the petitioner submits that the petitioner has been facing proceedings under Section 138 of Negotiable Instruments Act, 1881. He submits that petitioner has been appearing on each and every date of hearing, however, on account of the fact that the petitioner is aged 70 years and is suffering from serious ailment i.e. *epileptic seizures*, he could not appear on 10.02.2025 to join the Court proceedings. Counsel further submits that petitioner is suffering from *epileptic seizure* for the last 15 years and has been prescribed certain medicines by the doctors. While referring to the photocopy of prescription slip/OPD slip (Annexure P-2) counsel submits that even life of the petitioner is at risk because of the said ailment. The prescription slip/OPD slip is taken on record.



CRM-M-22251-2025

2

3. Learned counsel further submits that the non-appearance of the petitioner before learned Trial Court was neither intentional nor deliberate, but due to some unavoidable circumstances, as explained in the present petition. He further contends that, if one opportunity is granted to the petitioner to appear and then to grant him bail, he undertakes that in all the future proceedings of the present case, he will never be absent from the Court except on obtaining prior permission from the Court and will fully cooperate in the Court proceedings for early completion of trial.

In support of his submissions, learned counsel also relies upon the order dated **03.02.2025**, passed in **CRM-M-6331-2025**, titled as, “**Daljit Kaur v. State of Punjab**”, whereby, similar relief (as sought by the petitioner in present petition) has been granted to the similarly situated co-accused.

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



CRM-M-22251-2025

3

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



CRM-M-22251-2025

4

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 only on one date i.e. on 09.08.2023, when impugned order declaring the petitioner '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 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 10.02.2025 (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 within **four weeks**.

9. 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.

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

April 29, 2025

Sangeeta

**(SANJAY VASHISTH)
JUDGE**

Whether reasoned/speaking:

Yes/No

Whether reportable:

Yes/No