

CRM-M-49804-2025

2025:PHHC:122112



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

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CRM-M-49804-2025 (O & M)

Date of decision: 08.09.2025

Kaptan Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Janak S. Bhinder, Advocate for the petitioner.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition filed under Section 528 BNSS, for quashing of order dated 22.08.2024 (Annexure P8) in FIR No.195, dated 09.10.2018, registered under Sections 61, 78(2) of Punjab Excise Act, at Police Station Lehra, whereby the petitioner was declared as proclaimed absconder.

2. Learned counsel submits that an FIR under Excise Act was registered against the petitioner on 09.10.2018, wherein he was granted bail on 12.10.2018 by the trial Court. Thereafter, on 23.10.2023, his learned counsel told him that he has to appear as and when the prosecution evidence starts again. Now he came to know on 30.08.2025 from the co-accused that they have been acquitted by the trial Court vide judgment dated 06.06.2025, however, he was declared proclaimed absconder, without proper compliance of provisions of Section 82 Cr.P.C. His absence is neither wilful nor deliberate and on account of being misled by learned counsel appearing for him before the trial Court. Further that, he is ready and willing to join the proceedings and it is

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prayed that one opportunity may be granted to him to surrender before the learned trial Court.

3. Notice of motion.

4. On the asking of the Court, Mr. MS Bajwa, DAG, Punjab, accepts notice on behalf of the respondent-State and submits that the petitioner was rightly declared proclaimed absconder by the trial Court for having absented.

5. Heard.

6. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule of law, as also to ensure finalization of the proceedings.

7. Adverting to the facts of the present case, the reasons for non-appearance of the petitioner that led to the passing of the impugned order, appear to be justified. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court and such an absence cannot necessarily be construed as deliberate and wilful. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering the fact that the absence of the petitioner was not wilful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help in expediting the trial. This Court finds that the ends of justice would be adequately met if the present petition is allowed.

8. In view of the afore-mentioned facts and circumstances of the case, the impugned order dated 22.08.2024, Annexure P-8 is set aside,

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subject to surrender by the petitioner before the trial Court on or before 20.09.2025. On furnishing bail/surety bonds, the trial Court shall release him on bail subject to its satisfaction. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

9. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

08.09.2025

ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No