



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.: 146

Criminal Miscellaneous No.M-17001 fo 2025

Date of Decision: *March 27, 2025*

Rajesh Kumar

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

CORAM: **HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present:- Mr. Pawan Attri, 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 30.11.2019 (Annexure P-11), passed by Ld. Sub Divisional Judicial Magistrate, Guhla, whereby bail granted to the petitioner was cancelled; and he was declared Proclaimed person on account of non-execution of non-bailable warrants, on account of his non-appearance in the following FIR:-

FIR No.	Date	Section(s)	Police Station	District
185	30.09.2015	406, 420 IPC	Cheeka	Kaithal

2. Learned counsel for the petitioner points out that earlier there were eight accused, namely, 1. Rajesh Kumar; 2. Radhe Shyam; 3. Naresh; 4. Balkar; 5. Parveen Kumar; 6. Pardeep; 7. Salinder @ Sony; and 8. Ramesh Kumar.

3. During the course of investigation, four of the accused were found innocent and three of the accused, namely, Radhey Shyam, Naresh and Mohan Lal, except the petitioner/Rajesh, were set at acquittal by learned trial Court vide judgment dated 16.03.2020 (Annexure P-12)

4. Initially, vide order dated 09.05.2016, the petitioner was granted bail by the Court of Sub Divisional Judicial Magistrate, Guhla, and thereupon,



he continued joining the proceedings throughout. It is only on 29.07.2019 when petitioner could not appear and resultantly, his bail was cancelled by issuing non-bailable warrants by the trial Court. Subsequently, the petitioner was declared Proclaimed Person vide order dated 30.11.2019 (Annexure P-11).

5. Learned Counsel further submits that now petitioner is ready to join the process of law, however, he be directed to be released on bail, on his surrendering before the Court and thus, be protected from arrest. In case, one opportunity is granted, petitioner also 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.

6. Notice of motion.

7. Learned State counsel puts an appearance, and opposes the request of the petitioner by submitting that petitioner does not deserve any sympathy, because, he has misused the concession of bail granted by the Court. Learned State counsel by pointing out the irresponsible conduct of the petitioner, submits that there is every possibility that for the purpose of delaying the trial, he would again be absenting during the proceedings.

8. In number of cases, this Court has been experiencing the situation wherein, accused stopped appearing before trial Court in the criminal cases after being released on bail and thereby compelling the Court to issue non-bailable warrants by cancelling the bail already granted or such accused has been declared 'Proclaimed Person'/Proclaimed Offender'. After examining the facts from several cases, this Court has formulated and applied a uniform method by satisfying itself that such accused would appear before the



concerned Court, to enable it to proceed further, instead of delaying the proceedings to await the presence of accused.

Intentional or unintentional default of the accused can be dealt with by examining the facts from case to case in which he is 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 after 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 vis a vis 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.**



9. 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 29.07.2019, and non-bailable warrants issued against remained unexecuted time and again. Consequently, vide impugned order dated 30.11.2019, he was declared Proclaimed person after following due procedure. Be that as it may, trial concluded. The other co-accused stand acquitted vide order dated 16.03.2020 (Annexure P-12), except the petitioner. Now, he has shown his inclination to submit himself before the trial Court.

10. 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 (supra) is set aside to the extent of issuance of declaring the petitioner Proclaimed person, and he is directed to be released on bail, in the eventuality of appearance of petitioner before the trial Court on or before 10-04-2025.

The petitioner shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court, in case the bail bonds have already been forfeited. 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



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deposited, but not more than two weeks, failing which this order would not be of any advantage to the petitioner.

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

**(SANJAY VASHISTH)
JUDGE**

March 27, 2025

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Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No