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

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CRM-M-19604-2025 (O&M)
Date of decision: 08.04.2025

Deen Dayal @ Sanjay**...Petitioner****Versus****State of Haryana and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Vivek Goyal, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of order dated 23.12.2024 (Annexure P-9), passed by the Court of learned Judicial Magistrate First Class, Safidon in case titled as ***Rajesh vs. Deendayal @ Sanjay***, arising out a complaint filed by respondent No. 2 under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*), whereby the petitioner had been declared a proclaimed person.

2. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in the aforementioned complaint. He was on bail and was regularly appearing before the learned trial Court but he could not appear before the Court on 20.09.2024 due to his ill health, which resulted into cancellation of his bail and issuance of non-bailable warrants against him and ultimately, proclamation was issued against him. Subsequently, the petitioner could not appear before the Court as he was never served with any notice/warrants issued by the learned trial Court. More so, the petitioner had

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been declared a proclaimed person without following the proper procedure prescribed under Section 82 of Cr.P.C. He is ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

3. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

4. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section 82 Cr.P.C. as against the petitioner till the date of declaring him a proclaimed person, I am of the considered opinion that the impugned order dated 23.12.2024 suffers from some illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

5. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 14.10.2024, the non-bailable warrants issued against the petitioner were received back served through his brother but he failed to appear, on account of which, the learned trial Court had ordered for issuance of proclamation against him for 09.12.2024. Thereafter, on 04.11.2024, fresh proclamation was issued against the petitioner for 03.12.2024. Vide order dated 25.11.2024, the proclamation was received executed on 15.11.2024 requiring the petitioner to cause his appearance before the trial Court on 03.12.2024, which means that the petitioner was not granted mandatory period of 30 days to cause his appearance before the learned trial Court. Hence, the same was in clear violation of the provisions of Section 82(1) Cr.P.C., as per which, a specified

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time of not less than 30 days is required to be given to the accused from the date of publishing such proclamation which is mandatory in nature. Reliance in this regard can be placed upon *Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826* and *Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339*. Further, while adjourning the case to further date to complete the mandatory period of 30 days, the learned trial Court failed to consider the fact that it could not have extended the time by simply adjourning the case as a fresh proclamation was required to be published once the period between issuance of publication of proclamation and the specified period of hearing was less than 30 days. Reference in this context can be made to *Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166*.

6. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 23.12.2024 (Annexure P-9), passed by the Court of learned Judicial Magistrate First Class, Safidon in case titled as *Rajesh vs. Deendayal @ Sanjay*, arising out a complaint filed by respondent No. 2 under Section 138 of the N. I. Act, whereby the petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising therefrom.

7. Keeping in view the fact that the petitioner is ready to join the Court proceedings which would obviously help in speedy conclusion of trial, he is directed to surrender before the learned trial Court within a period of 15 days from today and on doing so, the learned trial Court shall release him on bail, subject to his furnishing fresh personal/surety bonds to its satisfaction.

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8. Till the appearance of the petitioner before the learned trial Court, his arrest shall remain stayed.

9. It is made clear that in case the petitioner fails to appear before the learned trial Court within the stipulated time, this petition shall be deemed to be dismissed.

10. However, this relief shall be subject to payment of cost of Rs. 5,000/-, to be deposited by the petitioner with the learned trial Court, which in turn shall be disbursed to respondent No. 2/complainant.

08.04.2025

Wasem Ansari

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No