



CRM-M-63885-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

118

CRM-M-63885-2024 (O & M)

Date of decision: 18.09.2025

M/S RECOUPON AND ANR

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : None appears due to the letter circulated by the  
Bar Association.

**AMAN CHAUDHARY, J. (ORAL)**

**CRM-28163-2025**

Allowed as prayed for. Annexures P-4 and P-5 are taken on  
record, subject to just exceptions.

**CRM-M-63885-2024**

1. The present petition has been filed under Section 528 of  
BNSS, 2023, for quashing the order dated 21.09.2023, Annexure P-3,  
passed by learned Judicial Magistrate Ist Class, Barnala, in NACT-566  
dated 15.11.2021, Annexure P-1, whereby petitioner-Kapil Kumar has  
been declared as proclaimed person.

2. As per the averments, the complaint under Section 138 of NI  
Act was filed in the year 2023, wherein the petitioner was summoned,  
however, since he has been residing at Dhakoli and not at his old address

**CRM-M-63885-2024**

mentioned in the complaint. He did not receive the summons/bailable warrants/warrants of arrest, as respondent No.2 despite having been directed, had not furnished the correct address, reference is made to the zimni orders Annexure P-2. The provisions of Section 82 Cr.P.C. cannot be said to have been complied with in letter and spirit. His absence is neither wilful nor deliberate and on account of the reason aforesaid. The petitioner is ready and willing to join the proceedings.

3. No order prejudicial to the rights of respondent No.2 is being proposed to be passed by this Court, thus, there is no requirement of effecting service upon him.

4. Perused.

5. This Court in **Gurbir Singh Mundi vs. State of Punjab and another** CRM-M-49283-2021, decided on 16.12.2021, has held that provisions of Section 82(2) Cr.P.C. are to be mandatorily complied with cumulatively and not alternatively. The Court had quashed the order declaring the petitioner therein as proclaimed person on the ground that declaration was not read publicly in some conspicuous place of town or village, in which the accused ordinarily resides.

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

**CRM-M-63885-2024**

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 in light of the judgment referred to above being applicable to the instant case, finds that the ends of justice would be adequately met if the present petition is allowed.

8. In view of the afore-mentioned judgment and the facts and circumstances of the case, the impugned order dated 21.09.2023, Annexure P-3, is set aside, subject to surrender by petitioner-Kapil Kumar before the trial Court on or before 30.09.2025 and payment of Rs.10,000/- as costs to respondent No.2. 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

**CRM-M-63885-2024**

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.

18.09.2025

parveen kumar

**(AMAN CHAUDHARY)**  
**JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No