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CRM-M-23299-2026

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2026:PHHC:065463 

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

CRM-M-23299-2026

Date of decision: 29.04.2026

SUBHASH PATHAK

...Petitioner

Versus

STATE OF U.T. CHANDIGARH AND ANR.

...Respondents

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. Mukesh Kumar Bhatnagar, Advocate for the petitioner.

....

RUPINDERJIT CHAHAL, J. (ORAL)

1. The present petition has been preferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, assailing the impugned order dated 15.04.2024 (Annexure P-2), whereby the learned Judicial Magistrate Ist Class, Chandigarh has declared the petitioner a proclaimed person.

2. Learned counsel for the petitioner submits that FIR No.178 dated 19.10.2021 u/s 279, 337 IPC, was registered at P.S. Manimajra, Chandigarh. He submits that the petitioner was granted bail by the learned Trial Court in the aforesaid case and thereafter, petitioner and the complainant entered into a compromise. Learned counsel for the petitioner has placed reliance on compromise deed (Annexure P-4). He submits that as compromise had already entered between the parties, the petitioner under the wrong impression that he is not further required to appear before the learned Trial absented himself. He submits that as a consequence, PO proceedings were initiated against him and vide order dated 15.04.2024 learned Trial Court declared the petitioner as proclaimed person vide order dated 15.04.2024 (Annexure P-2).



3. He further argues that since petitioner was never served with any notice/warrant, hence, the impugned order has been passed without complying with the requirements of section 82 Cr.P.C. (section 84 BNSS). He further submits that the petitioner undertakes to appear before the trial Court on each and every date of hearing. Hence, he prays for quashing of the said order.

4. Notice of motion.

5. Mr. Ganesh K. Sharma, Addl. P.P. UT Chandigarh accepts notice on behalf of respondent-State and supports the impugned order, contending that the petitioner deliberately avoided appearance, leaving the trial Court with no option but to issue proclamation to secure his presence.

6. Mr. Sanjeev Kumar Bawa, Advocate has put in appearance on behalf of the respondent No.2 and has filed his vakalatnama. The same is taken on record. He has affirmed the factum of compromise entered between the parties.

7. I have heard learned counsel for the parties and perused the record.

8. The object behind issuance of non-bailable warrants or proclamation is only to secure the presence of the accused. In the present case, the petitioner has voluntarily approached this Court and undertaken to appear before the trial Court regularly.


9. The determination of whether the default of an accused is intentional or unintentional must be made on a case-by-case basis, taking into account the specific facts and circumstances of each case. Where it is



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established that the absence, or prolonged absence, of the accused is deliberate and intended to evade the process of law, appropriate costs may be imposed after considering the nature of the offence and the capacity of the accused to pay any cost.

10. In the present case, apart from a bald assertion that requirements of Section 82 Cr.P.C. were not complied with before declaring petitioner a proclaimed person, no plausible ground has been raised by the learned counsel for the petitioner to support his contention. However, still this court is inclined in taking a lenient view keeping in view the facts and circumstances of the case in hand.

11. In view of the foregoing discussion, the petition is allowed. The impugned order dated 15.04.2024 (Annexure P-2), declaring the petitioner proclaimed person, is set aside and the petitioner is directed to appear before the trial Court within four weeks from today. Upon doing so, he shall be released on bail subject to furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court.

12. Besides, petitioner shall also file an undertaking/affidavit that he will appear in all future proceedings of the trial and proceedings shall not be delayed because of his conduct.

13. It is made clear that in case, petitioner fails to appear before the trial court within the stipulated period, this order shall be deemed to be vacated.

29.04.2026

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- i) Whether speaking/reasoned?
- ii) Whether reportable?

(RUPINDERJIT CHAHAL)
JUDGE

Yes/No
Yes/No