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(277)

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

**CRM-M-11999-2016
Date of Decision: 12.05.2026**

USHA MALHOTRA

... Petitioner

Versus

STATE OF PUNJAB & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sachin Sharma, Advocate with
Ms. Rakhi Sharma, Advocate
for the petitioner.

Mr. Attar Ahmed, DAG, Punjab.

Mr. Vishal Gupta, Advocate
for respondent No.2.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of complaint case No.188/11 dated 01.05.2008 (Annexure P-1) titled as "Ramesh Chander Khanna Vs. Nidhi Kakkar & others" registered under Section 500 IPC, the summoning order dated 03.12.2009 (Annexure P-2) and all consequential proceedings arising therefrom.

2. The brief facts of the case are that Ramesh Chander Khanna/complainant-respondent No.2 (hereinafter referred to as the respondent No.2) filed a complaint stating that he had been falsely implicated and consequently defamed in FIR No.215 dated 17.08.2005 U/s 406, 498-A IPC, P.S. Nawanshahr at the instance of Nidhi Kakkar, the wife of his near



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relative in which he was subsequently discharged. Based on the preliminary evidence led, the accused persons in the complaint namely, Nidhi Kakkar, Davinder Kumar Malhotra father of Nidhi Kakkar and Usha Malhotra (petitioner) wife of Davinder Kumar Malhotra came to be summoned under Section 500 IPC. The copy of the complaint dated 01.05.2008 and summoning order dated 03.12.2009 are attached as Annexures P-1 & P-2 respectively to the petition.

3. The petitioner, who was at that time said to be residing in Canada was declared a proclaimed offender on 20.09.2010 (Annexure P-3).

4. Meanwhile, Nidhi Kakkar and Davinder Kumar Malhotra were acquitted vide judgment dated 15.11.2013 (Annexure P-5).

5. Subsequently, the petitioner challenged the order whereby she was declared a proclaimed offender and she was asked to surrender before the Trial Court. In furtherance of the same, she surrendered and was granted the concession of interim bail after which her bail was made absolute by this Court vide order dated 27.01.2015 (Annexure P-7).

6. Thereafter, the instant petition was filed seeking quashing of the complaint and summoning order in which on 08.04.2016, the following order was passed:-

“Learned counsel for the petitioner contended that for the identical allegations, a complaint against Nidhi Kakkar and Davinder Kumar was dismissed by the trial Court vide judgment dated 15.11.2013. However, while dismissing the complaint, the trial Court has left it open to the complainant to revive the



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complaint qua the petitioner who was otherwise residing abroad at that point of time. The petitioner was never served in the case but still has been declared proclaimed offender in the case.

Notice of motion for 18.07.2016.

Meanwhile, the personal appearance of the petitioner is exempted.

In view of the nature of allegations made in the complaint, the matter is referred to the Mediation and Conciliation Centre of this Court. Parties are directed to remain present on 05.05.2016 before the Mediation and Conciliation of this Court.”

7. Thereafter, on 02.02.2017, the following order was passed:-

“Learned counsel for the petitioner seeks time to address arguments on the question of very maintainability of the petition.

List on 30th March, 2017.”

8. Thereafter, on 26.05.2017, the following order was passed:-

“The learned counsel for the applicant-respondent No.2/complainant states that under the garb of order dated 08.4.2016, the petitioner/accused is not appearing before the trial Court and her presence is necessary for the purpose of hearing arguments on the point of framing of charge.

Thus, the trial has been stalled because of non-appearance of the petitioner.

Notice of this application be issued for 12.7.2017.

Dasti as well.”

9. Thereafter, on 12.12.2017, the following order was passed:-

“On request, adjourned to 23.02.2018.

“Meanwhile, order dated 08.04.2016 passed by this Court, whereby personal appearance of the petitioner was exempted, shall remain in force.”



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10. As the petitioner refused to appear before the Trial Court, charges could not be framed against her. She was declared a proclaimed person once again vide order dated 23.09.2024 passed by the JMIC, Jalandhar. The said order was challenged separately vide CRM-M-53452-2025 which petition has been withdrawn by the petitioner.

11. The learned counsel for the petitioner has raised one argument and that is that when the co-accused of the petitioner have been acquitted proceedings qua the petitioner ought to be quashed as there is no likelihood of any fresh evidence coming against her. Reliance is placed on the judgment of this Court in *Amaninder Singh @ Maninder Singh Vs. State of Punjab, CRM-M-17709-2022, decided on 15.04.2024.*

12. On the other hand, the learned State counsel along with the learned counsel for respondent No.2 contend that the petitioner first absented herself and only sought to appear before the Court after her co-accused were acquitted. She then filed the instant quashing petition in which her presence was exempted. She absconded once again and has been declared a proclaimed person. The Zimni orders of this Court would show that the petitioner has not appeared in Court since 08.04.2016 i.e. for more than 10 years. The respondent No.2 has filed an appeal against the judgment of acquittal of Nidhi Kakkar and Davinder Kumar Malhotra bearing No.CRM-A-14-MA-2014 which is pending adjudication before the Sessions, Jalandhar. Once the petitioner has not subjected herself to the process of law and is in fact playing hide and seek having been declared a proclaimed offender twice, she



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is not entitled to be heard on merits even though her co-accused have been acquitted. Further, mere acquittal of a co-accused does not *ipso facto* entitle a co-accused to seek quashing of the proceedings qua the said accused. Therefore, the present petition is liable to be dismissed. Reliance is placed on the judgments in the cases of **Balmukund Singh Gautam versus State of Madhya Pradesh and anr. 2026 INSC 157**, **State of Madhya Pradesh Versus Laxmi Narayan and others, 2019(5) SCC 688**, **T. Moosa and etc. etc. versus Sub Inspector of Police, Vadakara Police Station, Ernakulam and etc. 2006(3) RCR (Criminal) 221**, **Deepak Oram versus State of Orissa, 2024 CriLJ 1313** and **Anjeev Singh alias Jeeva Vs. State of Punjab, CRM-M-15732-2026, decided on 23.03.2026**

13. I have heard the learned counsel for the parties.

14. Before proceeding further, it would be apposite to examine the judgments referred to hereinabove:-

In '**Balmukund Singh Gautam versus State of Madhya Pradesh and anr. 2026 INSC 157**', the Hon'ble Supreme Court refused to grant anticipatory bail to an accused even though his co-accused had been acquitted. The relevant extract of the said judgment is as under:-

16. Be that as it may, on the strength of the acquittal of the co-accused persons named in the Subject FIR, the Accused preferred his third anticipatory bail application, being MCRC No.1047 of 2024, before the High Court.

17. The High Court has disposed of the said application, by way of the Impugned Order, directing the Accused to surrender



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before the trial Court and move a Regular Bail and further, that the trial Court shall grant bail to the Accused on the same day after imposition of the adequate conditions.

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40. In the given facts and circumstances of the present case, the Subject FIR lodged by the original complainant against fourteen accused persons, including the Accused, contained serious allegations wherein one of the companions of the original complainant died due to the gunshots, and others received grievous injuries. The Cross FIR is also on record from the side of the co-accused Chandan Singh against nine persons including the original complainant. However, it is not in dispute that the Accused has been absconding from the date of the incident, i.e., 02.06.2017, and has never cooperated with the investigation; thus, the conduct of the Accused throughout the entire investigation has been highly questionable.

41. It is only in the year 2019, i.e., after 2 years, that the Accused filed his first anticipatory bail before the Sessions Judge, Bhopal, and in between this period, the police authorities have also announced the reward for the arrest of the Accused, but the Accused could not be arrested, as he was not traceable by the police.

42. Even the aforesaid letters dated 17.07.2017 and 20.07.2017 were exchanged by the police authorities with a view to initiate proceedings under Sections 82 and 83 of the CrPC. It is to be noted that the High Court, vide order dated 11.02.2020, while dismissing the second application for anticipatory bail filed by the Accused, stated that the Accused was a proclaimed offender, but there is no material on record placed before us to categorically establish that the absconding Accused was, in fact,



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declared a proclaimed offender. Nonetheless, this circumstance also does not ensure to the benefit of the Accused for claiming anticipatory bail, particularly when he himself failed to cooperate with the investigation.

43. In this regard, this Court in the case of Vipan Kumar Dhir v. State of Punjab and Another, reported in (2021) 15 SCC 518 held that:

"14. Even if there was any procedural irregularity in declaring the respondent-accused as an absconder, that by itself was not a justifiable ground to grant pre-arrest bail in a case of grave offence, save where the High Court, on perusal of the case diary and other material on record, is prima facie satisfied that it is a case of false or over-exaggerated accusation. Such being not the case here, the High Court went on a wrong premise in granting anticipatory bail to the respondent-accused."

44. It is thus a trite position that an absconder is not entitled to the relief of anticipatory bail as a general rule, however, in certain exceptional cases, where on a perusal of the FIR, case diary and other relevant materials on record, the Court is of the prima facie opinion that no case is made out against the absconding accused, then the power of granting anticipatory bail may be exercised in favour of the absconding accused. However, no such exceptional case is made out in favour of the Accused as per the documents on record.

45. Taking note of all these aspects, we are of the view that the High Court in the Impugned Order has not rightly exercised the discretion to grant the anticipatory bail, as it was not a fit case in which the discretion of granting anticipatory bail could be exercised. The Accused was a member of the mob, as disclosed in the Subject FIR, and has not only absconded from the investigation but has also threatened to kill the injured victim Shailendra alias Pintu, who was also the eye witness in respect



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of the Subject FIR, for opposing his bail application, and this fact can also be corroborated by the registration of FIR No.272/2019 dated 10.05.2019 against the Accused.

46. Further, as per the documents on record placed before us, the Accused also has criminal antecedents, i.e., Crime No.07/2010, 217/2017, 155/2017, and 217/2019, which cannot be brushed aside lightly, as they have an extreme adverse impact on society. Even in the order dated 27.08.2021, the 22nd Additional Sessions Judge and Special Judge (MP and MLA), Bhopal provided security to the injured victim Shailendra alias Pintu due to the threat by the Accused. The firearms also have not been recovered from the Accused or seized by the police till date.

47. Furthermore, on account of subsequent developments, the ground raised by the Accused that other co-accused in the Subject FIR have been acquitted by the trial Court vide judgment dated 24.06.2023 does not ipso facto entitle him to the relief of anticipatory bail on the ground of parity, particularly when the Accused himself failed to cooperate with the Court and delayed the trial of the other co-accused by absconding. Moreover, the accusations against the Accused have not been tried yet and are required to be independently examined and decided in the course of a separate trial.

48. In this regard, the full Bench of the Kerala High Court, in the case of Moosa v. Sub Inspector of Police, reported in 2005 SCC Online Ker 605, had occasion to discuss the question of whether an absconding accused can seek quashing of the criminal proceedings pending against him, when the co-accused have been finally acquitted by the trial Court. The full Bench held this as impermissible on the grounds that in a trial against



the co-accused, the prosecution is neither called upon nor expected to adduce evidence against the absconding accused, thus, the acquittal, or conviction for that matter, of the co-accused cannot have any bearing on the absconding accused. The relevant portion of Moosa (supra) is reproduced hereinbelow:

"53. [...] In the light of the above discussions, we may summarise the legal position as follows:

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(v) In a trial against the co-accused the prosecution is not called upon, nor is it expected to adduce evidence against the absconding co-accused. In such trial the prosecution cannot be held to have the opportunity or obligation to adduce all evidence against the absconding co-accused. The fact that the testimony of a witness was not accepted or acted upon in the trial against the co-accused is no reason to assume that he shall not lender incriminating evidence or that his evidence will not be accepted in such later trial.

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(viii) While considering the prayer for invocation of the extraordinary inherent jurisdiction to serve the ends of justice, it is perfectly permissible for the court to consider the bona fides the cleanliness of the hands of the seeker. If he is a fugitive from justice having absconded or jumped bail without sufficient reason or having waited for manipulation of hostility of witnesses, such improper conduct would certainly be a justifiable reason for the court to refuse to invoke its powers under S. 482 of the Code of Criminal Procedure.

(ix) The fact that the co-accused have secured acquittal in the trial against them in the absence of absconding co-accused cannot by itself be reckoned as a relevant circumstance while considering invocation of the powers under S. 482 of the Code of Criminal Procedure. [...]"

(Emphasis supplied)

49. Although the aforesaid case dealt with quashing of the proceedings entirely, the rationale applied therein can be



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instrumental in the present case, for the reason that the High Court, by way of the Impugned Order, granted anticipatory bail to the Accused solely based on the fact that the prosecution failed to produce any cogent evidence proving the involvement of the accused persons named in the Subject FIR, in the alleged offence. The High Court also took note of certain findings recorded in favour of the Accused by the trial Court in its judgment dated 24.06.2023 acquitting the co-accused. However, the said consideration is completely erroneous and perverse in an anticipatory bail application, especially when the Accused had been absconding for about 6 years and made a mockery of the judicial process. In view of such circumstances, the Accused cannot be permitted to en-cash on the acquittal of the co-accused persons. Further, the High Court failed to consider that any finding recorded by the trial Court either against or in favour of the absconding Accused is wholly irrelevant for the purpose of deciding the bail application as the prosecution was not required to produce any evidence against the absconding Accused during the trial of the co-accused persons, in view of the judgment in Moosa (supra).

50. It is apposite to mention that granting the relief of anticipatory bail to an absconding accused person sets a bad precedent and sends a message that the law-abiding co-accused persons who stood trial, were wrong to diligently attend the process of trial and further, incentivises people to evade the process of law with impunity.

In *State of Madhya Pradesh Versus Laxmi Narayan and others*, 2019(5) SCC 688 in the context of quashing of proceedings on the basis of a compromise, the Hon'ble Supreme Court held as under:-



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“16. So far as Criminal Appeal arising out of SLP 10324/2018 is concerned, by the impugned judgment and order, the High Court has quashed the criminal proceedings for the offences punishable under Sections 323, 294, 308 & 34 of the IPC, solely on the ground that the accused and the complainant have settled the matter and in view of the decision of this Court in the case of Shiji(supra), there may not be any possibility of recording a conviction against the accused. Offence under section 308 IPC is a non-compoundable offence. While committing the offence, the accused has used the fire arm. They are also absconding, and in the meantime, they have managed to enter into a compromise with the complainant. Therefore, for the reasons stated above, this appeal is also allowed, the impugned judgment and order dated 28.05.2018 passed by the High Court in Miscellaneous Criminal Case No. 19309/2018 is hereby quashed and set aside, and the FIR/investigation/criminal proceedings be proceeded against the accused, and they shall be dealt with, in accordance with law.”

In ***‘T. Moosa and etc. etc. versus Sub Inspector of Police, Vadakara Police Station, Ernakulam and etc. 2006(3) RCR (Criminal) 221’***, the Full Bench of the Kerala High Court held that an absconding accused cannot claim the benefit of acquittal of his co-accused by invoking Section 482 Cr.P.C. The relevant extract of the said judgment is as under:-

52. To quash the proceeding after referring to the overt act of the petitioner with reference to the evidence tendered in the judgment rendered in a case of a co-accused who faced the trial and based on evidence therein case of the accused cannot be done as the judgment in the earlier case is not judgment relevant within the meaning of Sections 40 to 44 of the Evidence Act. To



do so will be in the realm of appreciation of the evidence which has to be done by the trial Judge. In the above view, with great respect we cannot agree with the proposition of law thus stated in Arunkumar's case. The acquittal of some of the co-accused based on appreciation of evidence in their case is no ground to bar a criminal trial as the appreciation by the concerned Judge in a criminal trial is not binding when the latter case is tried in the case of the other co-accused and it is for the learned trial Judge to appreciate the evidence adduced in the latter case. In that regard possibly a particular witness may or may not be believed and his reliability may also be tested in the light of what he has stated in the earlier case etc. But those are all matters for the trial Judge to do. All that we want to say is that it will not preclude the trial of the case for the mere reason that the co-accused were acquitted. This is the principle that is stated by the Apex Court in Megh Singh v. State of Punjab, (2004 SCC CrI 58 : 2003 CriLJ 4329); Gorle S. Naidu v. State of A.P., (AIR 2004 Supreme Court 1169 : 2004 CriLJ 924) etc. Further, as held by the Apex Court in Rajan Rai's case (2005(7) Supreme 459 : 2006 CriLJ 163) the judgment in the case of the co-accused is not at all a judgment relevant within the meaning of Sections 40 to 44 of the Evidence Act. The rule of estoppel as held by the Apex Court is a rule of admissibility of evidence and which does not bar the trial as such. Hence, it has to be held that the power under Section 482, Criminal Procedure Code cannot be invoked to prevent the trial of the petitioners/accused solely by referring to the overt act played by the accused as spoken to by the witnesses in the case of the co-accused and this Court cannot in exercise of its jurisdiction under Section 482, Criminal Procedure Code quash the proceedings and prevent the



trial. Hence, the dictum laid down in Arunkumar's case to the extent it has taken a contrary view of what is stated above, is not a correct law and the same is overruled.

53. In the light of the above discussions, we may summarise the legal position as follows:

(i) The inherent powers of the High Court reserved and recognised under Section 482 of the Code of Criminal Procedure are sweeping and awesome; but such powers can be invoked only -

(a) to give effect to any order passed under the Code of Criminal Procedure or

(b) to prevent abuse of process of any Court or

(c) otherwise to secure the ends of justice.

Such powers may have to be exercised in an appropriate case to render justice even beyond the law.

(ii) Considering the nature, width and amplitude of the powers, it would be unnecessary, inexpedient and imprudent to prescribe or stipulate any straight jacket formula to identify cases where such powers can or need not be invoked.

(iii) But such powers can be invoked only in exceptional and rare cases and cannot be invoked as a matter of course. Where the Code provides methods and procedures to deal with the given situation, in the absence of exceptional and compelling reasons, invocation of the powers under Section 482 of the Code of Criminal Procedure is not necessary or permissible.

(iv) The fact that an accused can seek discharge/dropping of proceedings/acquittal under the relevant provisions of the Code in the normal course would certainly be a justifiable reason, in the absence of exceptional and compelling reasons, for the High Court not invoking its extraordinary powers under Section 482, Criminal Procedure Code

(v) In a trial against the co-accused the prosecution is not called upon, nor is it expected to adduce evidence against the absconding co-accused. In such trial the prosecution cannot be held to have the opportunity or obligation to adduce all evidence against the absconding co-accused.



The fact that the testimony of a witness was not accepted or acted upon in the trial against the co-accused is no reason to assume that he shall not tender incriminating evidence or that his evidence will not be accepted in such later trial.

(vi) On the basis of materials placed before the High Court in proceedings under Section 482 of the Code of Criminal Procedure (which materials can be placed before the Court in appropriate proceedings before the subordinate Courts) such extraordinary inherent powers under Section 482 of the Code of Criminal Procedure cannot normally be invoked, unless such materials are of an unimpeachable nature which can be translated into legal evidence in the course of trial.

(vii) The judgment of acquittal of co-accused in a criminal trial is not admissible under Sections 40 to 43 of the Evidence Act to bar the subsequent trial of the absconding co-accused and cannot, hence, be reckoned as a relevant document while considering the prayer to quash the proceedings under Section 482, Criminal Procedure Code. Such judgments will be admissible only to show as to who were the parties in the earlier proceedings or the factum of acquittal.

(viii) While considering the prayer for invocation of the extraordinary inherent jurisdiction to serve the ends of justice, it is perfectly permissible for the Court to consider the bonafides - the cleanliness of the hands of the seeker. If he is a fugitive from justice having absconded or jumped bail without sufficient reason or having waited for manipulation of hostility of witnesses, such improper conduct would certainly be a justifiable reason for the Court to refuse to invoke its powers under Section 482 of the Code of Criminal Procedure.

(ix) The fact that the co-accused have secured acquittal in the trial against them in the absence of absconding co-accused cannot by itself be reckoned as a relevant circumstance while considering invocation of the powers under Section 482 of the Code of Criminal Procedure.

(x) A judgment not inter parties cannot justify the invocation of the doctrine of issue estoppel under the Indian law at present.

(xi) Conscious of the above general principles, the High Court has to consider in each case whether the powers



under Section 482 of the Code of Criminal Procedure deserve to be invoked. Judicial wisdom, sagacity, sobriety and circumspection have to be pressed into service to identify that rare and exceptional case where invocation of the extraordinary inherent jurisdiction is warranted to bring about premature termination of proceedings subject of course to the general principles narrated above.

The Hon'ble Orissa High Court in '**Deepak Oram versus State of Orissa, 2024 CriLJ 1313**', in a case wherein discharge was sought on the grounds that the co-accused had been acquitted, held as under:-

18. In the trial of the co accused, the prosecution does not have the opportunity or obligation to adduce all evidence against the absconding co-accused. The fact that the testimony of a witness was not accepted or acted upon in that trial against the co-accused is no reason to assume that such witness shall not tender incriminating evidence or that his evidence will not be accepted in such later trial. It may be possible that a witness may not have come to the witness box or having come, may not have deposed against the accused persons in the trial for a variety of reasons including false implication, threats from absconding accused or failure to recollect the incident. But this does not mean that such a witness will never implicate the accused in the subsequent trial. Similarly a witness who has not come to the witness box in the first trial, may appear and depose against an accused who has not faced the previous trial.

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20. While considering the prayer of an accused for quashing of proceedings in exercise of power under Section - 482 Cr.P.C., where the chances of conviction of the accused is bleak, delay in approaching the Court may not be a ground for rejecting the application if the High Court is satisfied that allowing the



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proceedings to continue will be an exercise in futility and result in wastage of time and resources of the Court. But at the same time, it is open to the High Court to take into account, the bona fides and conduct of the accused who invokes exercise of the extraordinary power under Section 482 of the Cr.P.C. Whether such accused absconded or jumped bail, the reasons for doing so and whether he has waited "for manipulation of hostility of witnesses"? Conduct of an accused can be a justifiable reason for the court to refuse to exercise its power under Section 482 of the Code of Criminal Procedure.

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22. The petitioner had been arrested and released on bail during investigation of the case. As he did not appear in the case on a subsequent date i.e. 05.04.2006 NBW of arrest was issued against him. He remained at large for almost ten years. Five co accused persons who faced trial were acquitted by judgment dated 30.04.2012. This CRLMC was filed on 27.10.2016. But while the CRLMC remained pending in this Court, the case was in respect of the petitioner and one Ganga Sahu in the Court below was committed to the Court of Sessions, application filed by them for discharge was dismissed and charge has been framed against them on 20.03.2021 and summons issued to the prosecution witnesses.

23. In view of the facts of the case and developments which have taken place during pendency of the CRLMC and the settled position of law as discussed above, I do not consider this to be a fit case to exercise power under Section - 482 of the Crl.P.C. and quash the proceedings in C.T. Case No.2058(A) of 2004.

This Court in the case of **Anjeev Singh alias Jeeva Vs. State of Punjab, CRM-M-15732-2026, decided on 23.03.2026**, held as under:-



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*“12. Coming back to the facts of the instant case, it is the specific averment of the petitioner that he was regularly appearing before the Trial Court but on account of non-communication of the next date of hearing, he could not appear on 05.08.2024 on which date notice was issued to the petitioner for 07.11.2024. Later, he was declared a proclaimed person. Once, he was well aware of the proceedings pending against him, he certainly ought to be more diligent in appearing before the concerned Court. It does not lie in his mouth to say that the notice or non-bailable warrants were not served upon him or that the Court did not record the finding that he was intentionally evading service. Quite to the contrary, it is the petitioner who is playing hide and seek with the Court. Further, the judgments in **Balmukund Singh Gautam (supra)**, **T. Moosa and etc. etc. (supra)** and **Deepak Oram (supra)** are clear and categorical to the effect that an absconding accused cannot be granted the concession of anticipatory bail or cannot get his FIR quashed where his co-accused has faced Trial and has been acquitted.*

*13. The judgment in **Sudo Mandal @ Diwarak Mandal (supra)** wherein the proceedings pending against the absconding accused had been quashed as the co-accused had been acquitted would be per incuriam as it has been passed without noticing the law laid down in **T. Moosa and etc. etc. (supra)**. Further, in **Balmukund Singh Gautam (supra)**, which is a most recent pronouncement of the Hon’ble Supreme Court, even anticipatory bail has been denied to an absconding accused even though his co-accused had been acquitted.*

*14. The instant case is one of quashing of the FIR on the grounds that the co-accused has been acquitted which cannot be allowed in view of the law laid down in **Balmukund Singh Gautam (supra)**, **T. Moosa and etc. etc. (supra)** and **Deepak Oram (supra)**.*

15. In view of the above discussion, I find no merit in the present petition and the same stands dismissed.



20. Coming back to the facts of the present case, it is apparent that the petitioner though a lady and stated to be ailing has attempted to hoodwink this Court twice. She was first declared a proclaimed offender and chose to join proceedings after her co-accused were acquitted. Thereafter, she filed the instant petition. Her presence was exempted. She once again chose not to appear before the Court and has been declared a proclaimed offender once again. This Court had repeatedly asked the counsel for the petitioner as to whether the petitioner was ready and willing to join proceedings but he has categorically stated that the petitioner will not return back to India and instead wants an adjudication on merits. A connected petition seeking quashing of the order whereby the petitioner was declared a proclaimed offender for the second time has been withdrawn. Thus, quite apparently, the conduct of the petitioner leaves a lot to be desired and she is not entitled to any sympathy.

21. On merits, it would be pertinent to mention that though the co-accused of the petitioner i.e. her daughter and husband have been acquitted, the said acquittal has been challenged by respondent No.2 and the appeal against the judgment of acquittal is pending adjudication before the Sessions Judge, Jalandhar.

22. Keeping in view the judgments in ***Balmukund Singh Gautam (supra)***, ***State of Madhya Pradesh (supra)***, ***T. Moosa etc. (supra)***, ***Deepak Oram (supra)*** and ***Anjeev Singh alias Jeeva (supra)***, the complaint and summoning order cannot be quashed on the grounds that the co-accused have



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been acquitted particularly where the accused is absconding and is declared a proclaimed offender.

23. The judgment in **Amaninder Singh @ Maninder Singh** (supra) relied upon by the petitioner would not apply to the facts of the case inasmuch as in the said case, the petitioner therein had already joined investigation and proceedings were quashed qua him as the co-accused had been acquitted. In the instant case, as has already been mentioned above, neither has the petitioner joined proceedings having been declared a proclaimed offender but furthermore, the appeal against the judgment of acquittal of her co-accused is pending adjudication.

24. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

12.05.2026

JITESH

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