JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

CRIMINAL REVISION NO. 193 OF 2024

MUHAMMAD NAUMAN

VS

THE STATE AND ANOTHER

Petitioner by : **Mr. Haider Zaman Khan Niazi, Advocate along with the Petitioner**.

Respondents by : **Mr. Hassan Abbas, ADPP.**
M. Saleem ASI, P.S Lohi Bher.

Date of hearing : **12.2.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Criminal Revision Petition under Section 439 read with Section 561-A, Code of Criminal Procedure, 1898 **("Cr.P.C")**, the Petitioner/Accused has assailed the Order dated 12.11.2024 **("Impugned Order")** passed by the learned Additional District and Sessions Judge/Judge Special Anti-Rape Court, East-Islamabad whereby the Petitioner/Accused has been declared Proclaimed Offender and his Computerized National Identity Card (CNIC) has also been directed to be blocked in case FIR No. 456/23 dated 28.06.2023 registered under Section 376 of the Pakistan Penal Code, 1860 **("PPC")** with P.S Lohi Bher, Islamabad.

2. The brief facts of the case are that on the complaint of Respondent No. 2 **("Respondent No. 2/Complainant")** the above said FIR was registered against the Petitioner/Accused. After the registration of FIR, the Petitioner/Accused was arrested by local police and by order of the learned Judicial Magistrate, he was sent to judicial lock up. Subsequently, based on a compromise, the Petitioner/Accused was granted bail and released on bail. The Challan against the Petitioner/Accused was submitted in the court but the Petitioner/Accused did not appear before the learned Trial Court and therefore, after issuance of non-bailable warrants of his arrest and proclamation, he has been declared Proclaimed Offender and his CNIC has also been directed to be blocked vide the Impugned

Order. Being aggrieved of the Impugned Order, the Petitioner/Accused has filed the instant Criminal Revision Petition.

3. The learned counsel for the Petitioner/Accused argued that the Petitioner/Accused did not receive any summon or notice from the learned Trial Court; that the Investigating Officer did not inform the Petitioner/Accused regarding submission of Challan and initiation of proceedings; that during a transaction of the vehicle, it came into knowledge of the Petitioner/Accused that his CNIC is blocked by the order of the learned Trial Court; that the learned Trial Court failed to ensure proper service of notice under Section 87, Cr.P.C before declaring the Petitioner/Accused as Proclaimed Offender; that initiation of proceedings under Section 514, Cr.P.C are unjustified as the Petitioner/Accused was not provided with a fair opportunity to explain his absence; that non-appearance of the Petitioner/Accused before learned Trial Court was not intentional rather was due to lack of information; that the Impugned Order is harsh and violates the principles of natural justice; and that the Petitioner/Accused undertakes to be present on all subsequent dates and face trial if his arrest warrants are cancelled, bail bonds are restored and CNIC is unblocked. The learned counsel prayed for acceptance of instant Petition and setting aside of the Impugned Order.

4. Learned Assistant District Public Prosecutor **(ADPP)** argued that the instant case was registered against the Petitioner/Accused in the year 2023 but he failed to appear before the learned Trial Court to face trial; that case is lingering on due to absence of the Petitioner/Accused; and that the instant Petition may kindly be dismissed and the Petitioner/Accused be sent to jail so that his attendance may be ensured during trial.

5. I have heard the learned counsel for the parties and have also perused the record with their able assistance.

6. After hearing learned counsel for the Petitioner/Accused, learned ADPP and going through the available record appended with the Petition, it has been noticed that vide the Impugned Order, the Petitioner/Accused has been declared Proclaimed Offender and his bail bonds has been cancelled. It is trite law that

basic and prime purpose of issuance of process through notice, summons, bailable warrants, non-bailable warrants as well as proclamation is to bring the accused in the court for facing the proceedings of the case in accordance with law. In the instant case, the Petitioner/Accused did not appear before the learned Trial Court during the trial and resultantly his non-bailable warrants were issued for 1.10.2024. The primary contention of the learned counsel for the Petitioner/Accused is that no notice or summon was served upon the Petitioner/Accused, which resulted in his failure to appear before the Court. The Order dated 1.10.2024 of the learned Trial Court mentions a report from the Process Server indicating that the Petitioner/Accused had changed his residence. Despite this, the proclamation was issued against the Petitioner/Accused at the same address listed in the non-bailable warrants of arrest. This indicates that the notice, warrants of arrest, and proclamation issued against the Petitioner/Accused were not properly served, leading to his failure to appear before the learned Trial Court.

7. Perusal of the available record annexed with the Petition shows that the Petitioner/Accused was granted post-arrest bail through Order dated 4.7.2023, based on a compromise with the Respondent No. 2/Complainant. The Respondent No. 2/Complainant appeared before the learned Trial Court and submitted her Affidavit regarding the compromise with the Petitioner/Accused. Furthermore, the Petitioner/Accused now seeks to appear before the learned Trial Court to face the trial.

8. For what has been discussed above and in the interest of justice, instant Criminal Revision Petition is **allowed** and the Impugned Order is set-aside to the extent of proclamation and confiscation of surety bonds, subject to depositing of fresh surety bond in the sum of Rs. 50,000/- with one surety to the satisfaction of the learned Trial Court, in addition to the surety already submitted. Regarding the unblocking of the Petitioner/Accused's CNIC, the matter shall be decided by the learned Trial Court, considering the conduct of the Petitioner/Accused. The Petitioner/Accused is warned to be careful in future and is directed to appear before the learned Trial Court concerned on 20.2.2025. The learned Trial Court is directed to pick up the thread from where it was broken.

9. Copy of this order be sent to learned Trial Court for information.

(MUHAMMAD AZAM KHAN)
JUDGE

Adnan