

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

CRM-M-15246-2014 (O&M)

Date of decision: August 27, 2015

Malti Minhas

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Rajiv Kataria, Advocate
for the petitioner.

Mr.K.S.Pannu, DAG, Punjab.

Mr.A.S.Gill, Advocate
for the informant.

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1. *Whether Reporters of local papers may be allowed to see the judgment ?yes*
2. *To be referred to the Reporters or not ?yes*
3. *Whether the judgment should be reported in the Digest? yes*

Naresh Kumar Sanghi, J.(Oral)

Prayer in this petition filed under Section 482, Cr.P.C., is for quashing of order, dated 14.01.2014, passed by learned Sub Divisional Judicial Magistrate, Nakodar, whereby the petitioner, Malti Minhas, was declared a proclaimed person in a case arising out of FIR No.57, dated 11.03.2013, for the offences punishable under Sections 120-B, 406 and 420, IPC, registered at Police Station, City Nakodar, District Jalandhar.

Mr.Rajiv Kataria, learned counsel for the petitioner submits that immediately after registration of the impugned FIR, an application for grant of anticipatory bail on behalf of the petitioner was presented before learned Additional Sessions Judge, Jalandhar. The said application was dismissed on 03.05.2013 and thereafter the petitioner filed CRM-M-20177-2013 before this Court for grant of pre-arrest bail on 19.06.2013 in which notice of motion was issued for 09.09.2013 vide order dated 27.08.2013. The said petition for pre-arrest bail was dismissed as withdrawn with permission to file fresh one with better particulars. The petitioner once again filed CRM-M-43137-2013 on 16.12.2013 before this Court. In the meantime, the Investigating Agency, knowingly well that the petitioner was in the process of exhausting the legal remedies available to her for grant of pre-arrest bail, initiated the process of getting her (petitioner) declared as a proclaimed person. The way in which the process for getting the petitioner as proclaimed person was initiated, cannot be appreciated. Even the learned Area Judicial Magistrate, who declared the petitioner as a proclaimed person, has also not verified the facts before passing the impugned order dated 14.01.2014 and, as such, the same is liable to be set aside.

On the other hand, learned counsel for the State, assisted by learned counsel for the informant-Buta Singh, submits that the petitioner, in connivance with her co-accused, hatched a conspiracy and in furtherance thereof obtained the signatures/thumb impressions of Smt.Bhagwanti Devi, approximately 80 years old woman, on blank stamp papers and fabricated an agreement to sell 35 acres of agricultural land in

favour of petitioner Malti Minhas. As soon as informant Buta Singh, i.e. son of Smt.Bhagwanti Devi, who was residing in United States of America, came to know about the incident of forging of the power of attorney in favour of petitioner Malti Minhas, he came to India and reported the matter to the police on the basis of which FIR in question was registered on 11.03.2013. Immediately thereafter, on 03.05.2013, pre-arrest bail application filed by the petitioner was dismissed by learned Additional Sessions Judge, Jalandhar. The said fact would clearly spell out that the petitioner was well aware of the FIR of this case registered against her (petitioner). They further submitted that after dismissal of her pre-arrest bail petition by learned Additional Sessions Judge, Jalandhar, the petitioner approached this Court twice. In the first petition filed before this Court, no interim directions for staying her arrest was granted and ultimately after several months of its pendency the said petition was withdrawn with permission to file fresh one with better particulars. The second petition for grant of anticipatory bail was presented before Filing Section of this Court on 16.12.2013 and the same was listed before the Court on 19.12.2013. The matter was adjourned to 14.01.2014 at the request of learned counsel for the petitioner so that he might verify certain facts. On the adjourned date, the matter was further adjourned to 25.03.2014 at the request of learned counsel for the petitioner. By that time, there were no interim directions by this Court regarding the stay of arrest of the petitioner. In the meantime, non-bailable warrants for arrest of the petitioner were obtained from learned Area Judicial Magistrate and when she could not be arrested then

after exhausting the procedure laid down under Section 82, Cr.P.C., the petitioner was declared a proclaimed person vide order dated 14.01.2014.

Learned counsel for the State has placed reliance on **State of Madhya Pradesh vs Pradeep Sharma, 2014 (1) R.C.R. (Criminal) 269 (SC); Lavesb vs State (NCT of Delhi), 2012 (4) R.C.R. (Criminal) 240 (SC); Iqbal Singh Sabharwal and another vs State of Punjab and another (CRM-M-32670-2014, decided by this Court on 07.01.2015) and Joga Singh vs State of Punjab and another (CRM-M-29251-2014, decided by this Court on 17.08.2015)** to contend that no indulgence should be shown to the proclaimed offenders.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

There appears to be substance in the submissions put forth by the learned counsel for the State. The petitioner was declared a proclaimed person vide order dated 14.01.2014 by a Court of competent jurisdiction. For approximately eight months the petitioner was evading her arrest and, as such, the Investigating Agency was well within its right to initiate the process to secure the presence of the petitioner by way of issuance of non-bailable warrants and thereafter requesting the learned Area Judicial Magistrate to declare her (petitioner) a proclaimed person.

In view of the totality of the facts and circumstances of the case and taking into consideration the ratio of the judgments relied by learned counsel for the State, no ground for quashing of

the order dated 14.01.2014 is made out.

Dismissed.

August 27, 2015
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(NARESH KUMAR SANGHI)
JUDGE