

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

**CRL. MISC. No.M-1013 OF 2017
DATE OF DECISION : 17TH FEBRUARY, 2017**

Avtar Singh Gill

.... Petitioner

Versus

The State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Rajesh Bhatheja, Advocate for the petitioner.

Mr. Daljeet Singh Virk, AAG, Punjab.

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A. B. CHAUDHARI, J. (ORAL)

Rule heard forthwith with consent of counsel for the parties.

Heard learned counsel for the rival parties.

There is challenge to order dated 27.08.1994 passed by the SDJM, Zira (Annexure P-2), District Ferozepur by which the petitioner was declared proclaimed offender (PO) in FIR No.48 dated 07.04.1993 registered under Section 15/61/85 of NDPS in Police Station Dharamkot, District Ferozepur (now District Moga).

Learned counsel for the petitioner submits that the petitioner, after filing of the challan, went to United States of America (USA) and is now settled there. Learned counsel for the petitioner then submitted that the trial in respect of the co-accused has been held and he has been acquitted vide order dated 28.08.2000. There were only two accused in this FIR. In the wake of said PO order the petitioner cannot appear before the trial Court since there will be arrest of the petitioner.

There is no other case pending against the petitioner nowhere. Since the

petitioner has settled in USA the petitioner wants to face the trial before the trial Court on merits and therefore, the PO order of the year 1994 may be quashed and set aside and the petitioner may be given an opportunity to contest the prosecution.

Learned State counsel opposed the petition on the ground that the PO order itself is of the year 1994 and it is too late in the date to interfere with the said PO order.

Undoubtedly, the petitioner has kept himself away from the prosecution for number of years. However, eventually there is an order of acquittal of the co-accused. Apart from that, the petitioner is settled in USA for over two decades and since he wants to join and face the trial, at least a chance should be given to the petitioner. However, as the delay is attributed to the petitioner and the manner in which he has kept himself away from the prosecution, the State of Punjab is required to be compensated as a pre-condition for setting aside the PO order.

In that view of the matter, I make the following order:

ORDER

- (i) Rule is made absolute.
- (ii) Impugned order dated 27.08.1994 (Annexures P-2) passed by SDJM, Zira, District Ferozepur (now District Moga) is set aside, subject to deposit of ₹40,000/- by the petitioner with the trial Court which shall be appropriated by the State of Punjab.
- (iii) The petitioner would appear before the concerned Court, in the above said FIR, with promptitude till the completion of trial. The trial Court shall take up the trial and complete the same within four months from today.
- (iv) In the event of arrest, the petitioner is granted anticipatory bail in FIR No.48 dated 07.04.1993 registered under Section

15/61/85 of NDPS in Police Station Dharamkot, District Ferozepur, (now District Moga) on furnishing bail bonds to the satisfaction of trial Court.

(v) Any further default would be viewed seriously by the trial Court.

Disposed of accordingly.

17TH FEBRUARY, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No.</i>