

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

CRM-M-21737-2016 (O&M)

Date of Decision: 03.02.2017

Ram Gopal

.....Petitioner

vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sanjay Sharma, Special Power of Attorney,
for the petitioner.

Mr. Kuldeep Tiwari, Addl. A.G., Haryana.

Ms. Savita, Advocate,
for respondent no. 2.

AMOL RATTAN SINGH, J. (ORAL)

The petitioner has filed this petition under Section 439 (2) of the Cr.P.C., seeking cancellation of the orders passed by the learned Additional Sessions Judge, Karnal, on 18.05.2016, staying arrest of respondent no. 2 herein. The said order eventually merged into the order dated 16.07.2016, which has also been placed on record by way of CRM-26152-2016, as Annexure P-13. By the said order, respondent no. 2 has been admitted to bail on furnishing surety to the satisfaction of the learned trial Court.

The background of the matter is that the petitioner has filed a complaint against respondent nos. 2 and three other persons, alleging therein the commission of offences punishable under Sections 406, 420, 467, 468, 471 and 120-B of the IPC.

The 2nd respondent herein, i.e. Alim, not having appeared before the learned trial Court in the complaint case, warrants for his arrest were issued, in response to which also he could not be produced. He was eventually declared to be a proclaimed person by the trial Court. It is admitted that respondent no. 2 eventually appeared before the trial Court and stated that he was not Alim son of Bashir but his fathers' name was Rehmat and as such, PO proceedings had not been initiated against the correct person and that in fact he had never been served with the summons issue to him.

Be that as it may, no comment with regard thereto is made by this Court as those proceedings are still ongoing and the order declaring respondent no. 2 to be a proclaimed person is not subject matter of challenge before this Court.

As regards the orders staying the arrest of respondents no. 2 and those eventually granting him bail, it is seen that the reasoning given by learned Additional Sessions Judge, vide his order dated 16.07.2016, is that respondent no. 2 herein (petitioner in the petition seeking bail before that Court), being an accused in a complaint case and warrants having been issued only to secure his presence before the trial Court, and he having already appeared there, there would be no reason to keep him in custody. Consequently, he has been admitted to bail, contingent upon his furnishing surety to the satisfaction of the trial Court.

I find no error in the aforesaid order of the learned Additional Sessions Judge and consequently, the earlier order of the trial Court staying arrest of the petitioner, would also lose meaning, that order having merged eventually into the 'bail order' dated 16.07.2016.

Obviously if respondent no. 2 does not appear before the trial Court again, appropriate proceedings would be initiated by that Court as it deems proper.

Consequently, finding no merit in the petition, it is dismissed.

It is made clear that nothing observed hereinabove shall be construed to be a comment on any of the proceedings pending before any Court, either in the complaint filed by the petitioner, or the proceedings pertaining to declaration of the 2nd respondent herein as a proclaimed person/proclaimed offender.

(AMOL RATTAN SINGH)
JUDGE

February 03, 2017
nitin

Whether speaking/reasoned	Yes
Whether Reportable	No.