

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-39772-2016 (O&M)

Date of decision: 05.12.2017

Hardev Kaur

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vaibhav Sehgal, Advocate
for the petitioner.

Mr. A.S. Gill, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 17.03.2014 (Annexure P-1) passed by the trial Court vide which the petitioner has been declared as proclaimed offender.

On 26.10.2017, the following order was passed: -

“Prayer in this petition is for setting-aside the order dated 17.03.2014 (Annexure P1) passed by the trial Court vide which the petitioner has been declared as proclaimed offender.

Reply by way of an affidavit of Deputy Superintendent of Police, Sub-Division Samrala, Police District Khanna, District Ludhiana filed in the Court is taken on record.

Counsel for the petitioner has submitted that the petitioner is a NRI lady and was residing in Canada when the proceedings under Section 82 Cr.P.C. were initiated and, therefore, no proper service was effected upon her as at the time of proclamation, she was not in India. It is further submitted that 02 co-accused of the petitioner namely Rahul @ Som @ Baba @ Sanjeev Singh @ Sanjeev Mehra @ Rohit as well as Amrik Singh @ Rajeev @ Manjit Singh, after facing full length trial have been acquitted by the trial Court vide order dated 16.05.2016. Counsel for the petitioner has further submitted that the petitioner is ready to appear before the trial Court and face the proceedings, in accordance with law.

Counsel for the State, on instructions from ASI Joginder Singh, has opposed the prayer made by counsel for the petitioner on the ground that the petitioner was having knowledge of pendency of the FIR and has intentionally not appeared before the trial Court and, therefore, she has rightly been declared as proclaimed offender vide impugned order dated 17.03.2014.

After hearing counsel for the parties, I hold that the impugned order dated 17.03.2014 is liable to be set-aside as no proper procedure was followed and petitioner was never served with the process of Court.

List again on 05.12.2017.

In the meantime, the petitioner is directed to

appear before the trial Court on or before 23.11.2017 and on her appearance, the trial Court will release the petitioner on interim bail subject to furnishing her bail/surety bonds subject to further condition that she will deposit an amount of Rs.50,000/- as costs for delaying the proceedings, in the Government Treasury under a head to be nominated by the trial Court.

It is made clear that deposit of costs shall be a precondition before accepting the bail/surety bonds of the petitioner.”

Counsel for the petitioner submits that in pursuance of the abovesaid order dated 26.10.2017, petitioner has appeared before the trial Court and has been granted interim bail. Counsel for the petitioner has produced a receipt of payment of costs of Rs.50,000/-, which has been deposited by the petitioner in the Govt. treasury.

In view of the above, the impugned order dated 17.03.2014 (Annexure P-1) is set aside and the order dated 26.10.2017 is made absolute.

[ARVIND SINGH SANGWAN]
JUDGE

05.12.2017
vishnu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No