

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

CRM-M-40195 of 2016

Date of Decision: February 08, 2017

Gurmej Singh

Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ivneet Singh Pabla, Advocate
for the petitioner.

Mr. Deepak Sabherwal, Addl. A.G. Haryana.

FATEH DEEP SINGH, J.

Through this petition the petitioner-accused Gurmej Singh has sought to challenge and impugn under the provisions of Section 482 Cr.P.C orders dated 21.2.2014 Annexure P/3 passed by the learned Judicial Magistrate 1st Class, Bhiwani declaring the petitioner to be proclaimed offender in FIR No.211 dated 12.05.2013 pertaining to Police Station Tosham (Haryana) under Sections 420 IPC and Sections 15/27-A/65/85 of NDPS Act.

Heard learned counsel for the parties and perused the records of the case. Allegations of the prosecution as are reflected from the records of the Court below are that it was on 12.5.2013 when Police party headed by ASI Surat Singh accosted a car bearing No. HR-61-1039 whose driver fled away from the spot and from the search of the car 280 kg. of poppy husk was recovered leading to registration of the present case. Since

the car as per the allegations of the prosecution is registered in the name of the petitioner and he has been arrayed as an accused so by virtue of that. The petitioner has been declared as proclaimed offender on the basis of process initiated under Section 82/83 Cr.P.C by the learned Judicial Magistrate 1st Class, Bhiwani.

Appreciating the submissions of the two sides it is well elicited from the records and is the own stand of the learned State counsel that the petitioner was neither named at the time of the alleged occurrence when the alleged recovery has been made nor has been identified so and it was subsequent thereto on the basis of the registration of the vehicle to be in the name of the petitioner he has been arrayed as an accused. Learned State counsel could not show by any means that the petitioner was ever at any point of time conversant with the registration of the case and even the report made by the Police on the records which is dated 23.10.2013 shows that Sukhwinder Kaur wife of the petitioner has detailed to the Police that her husband was vagabond and rarely comes home. Though, the wife is in the knowledge of this fact of a criminal case having been registered against the petitioner but till the filing of the present petition dated 06.10.2016 did not choose to appear before the Court to have legal recourse certainly needs to be deprecated. However, this Court in the ratio laid down in CRM-M-12547 of 2016 **Avtar Singh vs. Harminster Singh Kang** has considered at length the situation and eventualities where a petitioner is entitled to have recourse to the provisions of Section 482 Cr.P.C to meet the ends of justice. Since the case of the petitioner is very well covered by the said ratio being not named, apprehended and unaware is certainly entitled to challenge such an order. In

the light of the ratio cited above it would be travesty of justice, if the petitioner is proceeded at his back being unaware of the proceedings.

In the light of the same, orders dated 21.2.2014 Annexure P/3 passed by the learned Judicial Magistrate 1st Class, Bhiwani declaring the petitioner as Proclaimed Offender are hereby set aside. However, the petitioner is directed to ensure that he puts in appearance before the Court concerned and face legal recourse without further loss of time.

(FATEH DEEP SINGH)
JUDGE

February 08, 2017
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No