

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16790-2018 (O&M)

Date of Decision: 05.07.2018

Jaspal Singh @ Happy Singh

...Petitioner

vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. P.S.Sekhon, Advocate, for the petitioner.

Ms. Simran Grewal Randhawa, AAG, Punjab

ARVIND SINGH SANGWAN, J. (Oral):

Prayer in this petition is for quashing of order dated 04.04.2011 (Annexure P2), vide which the petitioner was declared a proclaimed offender in FIR No. 473 dated 22.12.2005 under Sections 15/25/61 and 85 of the NDPS Act, registered at Police Station Kotwali Sangrur, District Sangrur.

Counsel for the petitioner submits that the petitioner was arrested in the aforesaid FIR and later on regular bail was granted to the petitioner and, thereafter, vide impugned order dated 04.04.2011 (Annexure P2), the petitioner was declared as proclaimed offender. Counsel further submits that the petitioner was arrested thereafter on 05.10.2011 in another FIR No. 119 dated 02.09.2010, under Section 15 of the NDPS Act, registered in the Police Station Sadar Sangrur and remained in judicial custody till 05.01.2013. However, the police never re-arrested the petitioner in FIR No. 473 dated 22.12.2005 which is also in the same police station, after declaring the petitioner as proclaimed offender.

Counsel for the petitioner has relied upon the judgment dated 04.01.2013 (Annexure P4) passed by Judge, Special Court, Sangrur, vide which the petitioner was acquitted in FIR No. 119 dated 02.09.2010 after facing full length trial. Counsel for the petitioner has further relied upon judgment dated 08.06.2011 passed by Judge, Special Court, Sangrur vide which the co-accused of the petitioner, in the FIR No. 473 dated 22.12.2005, have faced the trial and were also acquitted.

Counsel for the petitioner further submitted that the petitioner was in a bona fide impression that he stands acquitted in the present FIR alongwith other co-accused as in judicial custody he was facing trial in other FIR and was also appearing in Court. Therefore, he was not aware to the fact that he was declared a proclaimed offender as in the subsequent FIR, he remained in judicial lock up for a period of about 15 months when he was acquitted.

Counsel for the petitioner further submits that the petitioner is ready to surrender before the trial Court and apply for regular bail as the recovery in the present FIR is of non-commercial quantity.

Learned State counsel has filed reply by way of affidavit of DSP, Sub-Division, Sangrur, and in para No. 4 of the reply on merits, the factual position as stated by learned counsel for the petitioner that both the FIRs pertain to the same police Station i.e. Sadar Sangrur is not disputed . It is also not disputed that the petitioner was arrested in the subsequent FIR No. 119 dated 02.09.2010 and remained in custody as stated by the learned counsel for the petitioner.

After hearing learned counsel for the parties, I find merit in the present petition.

Admittedly, the petitioner was declared a proclaimed offender and was later on arrested in FIR No. 119 dated 02.09.2010 of same police station in which he remained in judicial custody for about 15 months and after facing the full length trial, he was acquitted vide judgment dated 04.01.2013 (Annexure P4). It is also apparent from the judgment dated 08.06.2011 (Anenxure P3) pertaining to FIR No. 473 dated 22.12.2005 that the trial was going on in the present case as well simultaneously and co-accused of the petitioner, namely, Gurmail Singh and Lakhwinder Singh were acquitted, however, the petitioner was never produced before Special Court at Sangrur in the present FIR despite the fact that he was in judicial lock up in the same police station in the subsequent FIR No. 119 where he was acquitted after undergoing 15 months judicial custody.

In view of the same, the present petition is allowed. Order dated 04.04.2011 (Annexure P2), declaring the petitioner as proclaimed offender is set aside. The petitioner is directed to surrender before the trial Court within a period of 15 days from today and the trial Court will release the petitioner on bail on furnishing bail/surety bonds and will proceed further in the trial.

05.07.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No.
Whether Reportable : Yes/No