

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 20408 of 2018 (O&M)

Date of decision : 14.5.2018

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Honey Thapar

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. J.S. Thakur, Advocate
for the petitioner.

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H. S. Madaan, J.

This petition under Section 482 Cr.P.C. for quashing of proclamation order Annexure P-6 in FIR No. 96 dated 28.5.2014, for an offence under Section 22 of the NDPS Act, registered at police Station Adampur, District Jalandhar Rural (wrongly mentioned as Jalandhar City), has been filed by petitioner Honey Thapar, who is an accused in that case.

Petitioner Honey Thapar was arrested in the FIR in question. He was granted interim bail by Judge, Special Court, Jalandhar vide order dated 6.10.2017 for the reason that report from Chemical Examiner was yet to be received. Thereafter, report was received, but accused did not put in appearance. Warrants of arrest were issued

against him. Those were received back unexecuted. Proclamation under Section 82 Cr.P.C. was ordered to be published. It was duly done. Accused failed to put in appearance in the trial Court within stipulated period of 30 days, as such he was declared as proclaimed offender vide order dated 15.11.2017. The petitioner has challenged that order.

According to him he had been arrested in another case bearing FIR no. 217 dated 1.9.2017 registered at Police Station Adampur itself, and he was in custody at the time of issuance of proclamation and he was wrongly declared proclaimed offender.

However, after going through the record, I do not find anything wrong with the impugned order. Even if it is taken that petitioner was behind bars in some other criminal case, he should have informed the trial Court in that regard either by moving application through his counsel or sending representative through Superintendent Jail. Even otherwise after being granted bail in FIR No. 217/2017, he should have surrendered in the trial Court and apprise it of all the facts and circumstances instead of rushing to this Court with the present petition. The petitioner is an absconder and petition under Section 482 Cr.P.C. at his instance is not maintainable.

As such in view of the authority **Mehnga Singh vs. State of Punjab 2002 (2) RCR (Criminal) 501**, by a Coordinate Bench of this Court, in such an eventuality, the accused should first move the Court which declared him proclaimed offender and power under Section 482 Cr.P.C. is not to be exercised in favour of a person who is absconder or avoiding service.

Therefore, I do not find anything wrong with the impugned order which might have called for any interference therewith while exercising power under Section 482 Cr.P.C.

The petition being without any merit, stands dismissed.

14.5.2018
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(H.S. Madaan)
Judge

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