

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

**CRM-M-48291-2017
Date of decision: 28.08.2018**

Balwinder Singh @ Paro

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. M. S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 482 Cr.P.C., is for quashing the order dated 16.03.2017 (Annexure P-2), vide which, the petitioner was declared a proclaimed offender in case FIR No. 80 dated 05.08.2016, registered under Sections 306 and 34 of the IPC at Police Station Lambra, District Jalandhar.

On 15.05.2018, the following order was passed:

“Having considered the factual position as in the present case, notice of motion was issued by this Court on 17.02.2017 in CRM-M-5297 of 2017. With the Investigating Officer not coming present, the case was adjourned on one pretext or the other. The petition was ultimately disposed of vide order dated 04.10.2017 when it came to the notice of the Court that in the meanwhile, the petitioner has been declared as proclaimed offender with liberty to challenge the said order. Now, the present petition has been filed. The delay, therefore, is not attributable to the petitioner as such. Counsel for the petitioner states that the petitioner is ready and willing to

join investigation and co-operate with the same.

Counsel for the State, on instructions from ASI Kulwinder Singh, Police Station Lambra, District Jalandhar (Rural), informs the Court that after investigation, two co-accused have been found innocent whereas one of the co-accused, namely, Jarnail Singh @ Jagga is facing trial.

Let the petitioner join investigation before ASI Kulwinder Singh, Police Station Lambra, District Jalandhar (Rural) on 18.05.2018 at 10 A.M.

List on 28.08.2018.

In the meanwhile, in the event of the arrest of the petitioners, they shall be released on bail to the satisfaction of the Arresting Officer, subject to the conditions contained in Section 438 (2) Cr. P.C. They will join the investigation as and when required.”

Learned counsel for the petitioner submits that the petitioner has already appeared before the Investigating Officer and joined investigation. It is further submitted that despite the fact that the application seeking anticipatory bail, filed by the petitioner, was pending before this Court, the petitioner was declared a proclaimed offender on 16.03.2017, therefore, the procedure prescribed under Sections 82/83 of the Cr.P.C. was not followed though it was well within the knowledge of the Investigating Officer that the anticipatory bail application of the petitioner is pending before this Court.

Learned State counsel, on instructions from ASI Kulwinder Singh, has not disputed the fact that the petitioner has joined the investigation and he is no more required for further investigation. Learned State counsel has further submitted that the challan against one of the co-accused namely Jarnail Singh @ Jagga has been filed in Court and he is

now facing trial.

I have learned counsel for the parties.

Since the petitioner has already joined investigation and as per the statement of Investigating Officer, he is no more required for further investigation, I deem it appropriate to allow this petition.

Accordingly, without commenting anything on the merits of the case, this petition is allowed. Order dated 16.03.2016 (Annexure P-2), passed by the trial Court, declaring the petitioner a proclaimed offender, is set aside and the order dated 15.05.2018, passed by this Court, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

August 28, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No