

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

CRM-M-47357-2019

Date of decision-06.11.2019

Kabal Singh @ Kali

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Arora, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner-Kabal Singh @ Kali has filed this petition under Section 482 Cr.P.C to challenge the order dated 31.10.2018 whereby his application for exemption from personal appearance was rejected and bail was cancelled. Also challenge is laid to the order dated 21.09.2019, whereby the petitioner was declared proclaimed offender by the trial Court in case FIR No.90 dated 27.05.2014 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 Act at Police Station Jhabhal, District Tarn Taran.

Learned counsel for the petitioner contends that in the FIR No.90 dated 27.05.2014, the petitioner was granted the concession by the trial Court and ever since the petitioner appeared before the trial Court regularly till 31.10.2018. He submits that on the said date when the case was fixed for framing of charge, the petitioner could not appear because of his ailing health and an application was moved for exemption from personal appearance through his wife. He submits that the said application was

declined by the trial Court and at the same time, the bail was also cancelled. Further, the Court forfeited the bail bonds and surety bonds and issued the non-bailable warrants for securing his presence. The said order is on record as Annexure P-2. Learned counsel contends that thereafter, the trial Court on subsequent dates issued a fresh non-bailable warrants to secure the presence of the petitioner who had kept himself away from the Court proceedings.

It is not disputed that finally the Court resorted to the proclamation proceedings under Section 82 Cr.P.C vide order dated 23.05.2019. During the course of hearing, learned counsel is unable to give any valid explanation for keeping himself away from the Court proceedings particularly when he was well aware of the order dated 31.10.2018 whereby his application for exemption from personal appearance was dismissed. It is not disputed by Mr. Arora that no application seeking anticipatory bail or recalling the warrants under Section 70 (2) Cr.P.C was ever filed by the petitioner. He has argued that the petitioner was under the fear that the Police would arrest him, therefore, he did not appear.

Considering the background of this case and after hearing learned counsel for the petitioner, this Court finds that the petitioner/accused was willfully keeping himself away from the Court proceedings and at the same time was keeping a close watch on the said proceedings.

It is apparent that the petitioner displayed grave misconduct who has violated his undertaking of appearance furnished through the bail bonds. Therefore, this Court does not find any valid reason to interfere with the order whereby his bail was cancelled and non-bailable warrants were

issued.

At this stage, Mr. Arora contends that the second prayer for setting aside the proclamation order warrants interference as the statutory period of 30 days was not given to the petitioner for appearance as contemplated under Section 82 Cr.P.C and therefore, order is not sustainable. He has placed reliance upon the judgments passed by this Court in CRM-M-1866-2017, titled as "*Avtar Singh Vs. State of Punjab and another*", CRM-M-42740-2016, titled as "*Satinderpal Aujla @ Satinder Singh Vs. State of Punjab and another*", CRM-M-4100-2015, titled as "*Dilbagh Singh @ Sonu Vs. State of Punjab*" and CRM-M-13638-2013, titled as "*Ashok Kumar Vs. State of Haryana and another*".

As observed earlier that the petitioner who was well aware of the Court proceedings throughout, therefore, the petitioner cannot be permitted to challenge the proclamation proceedings at this stage. The citations relied upon by learned counsel for the petitioner may not be applicable in the present case as in these cases, the issue addressed was regarding proclamation proceedings alone as the status of the accused therein that whether he was on bail or was yet to join the proceedings was not noticed. Resultantly, these judgments are of no help to the cause of the petitioner.

In view of the above, petition is dismissed.

(MANOJ BAJAJ)
JUDGE

06.11.2019

vanita

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No