

263

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

CRM-M-61922 of 2018 (O&M)

Date of decision: December 11, 2019

Davinder Saini @ Suman

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Mahir Sood, Advocate for the petitioner.

Mr. H.S. Multani, AAG Punjab.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for setting aside the impugned order dated 30.10.2013 (P-5) passed by the learned Judicial Magistrate Ist Class (for short 'JMIC'), Jalandhar, vide which the petitioner has been declared as a proclaimed person, in FIR No.14 dated 12.02.2011, under Sections 323, 324, 148, 149 of the Indian Penal Code, 1860, registered at Police Station Bhogpur, District Jalandhar.

Reply by way of affidavit dated 01.05.2019 of Gurdev Singh, Deputy Superintendent of Police, Sub Division, Adampur, Jalandhar already filed in the Registry of this Court, is taken on record.

Registry to do the needful.

On 09.01.2019, while issuing notice of motion, this Court has passed the following order:-

“Learned Counsel for the petitioner states that his client is ready to deposit the costs of ₹50,000/- with the Bar Association of this Court and to join the proceedings before

learned trial Court within one week.

Notice of motion for 13.02.2019.

In case, petitioner surrenders before learned trial Court and moves an application for bail, she be released on interim bail till the next date of hearing on her furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

Costs of ₹50,000/- be deposited within four days from today in the O/o Bar Association, Punjab & Haryana High Court, Chandigarh.”

It is contended by learned counsel for the petitioner that in terms of order dated 09.01.2019 passed by this Court, petitioner has already joined proceedings before the learned trial Court and has also paid costs of ₹50,000/-. Further contends that as a matter of fact, the petitioner was residing in Italy and thus, proper procedure under Section 82 of the Cr. P.C. has not been followed, in this case.

Learned State counsel, on instructions from police official present in Court to assist him, has acknowledged the factum of joining the proceedings by the petitioner before learned trial Court, but has opposed the prayer and submitted that the petitioner has been rightly declared as a proclaimed person.

Heard both sides and perused the paper-book.

Concededly, the petitioner has joined proceedings before the learned trial Court, appearing regularly; and has also deposited costs of ₹50,000/-. Also to be noticed that the factum of residing in Italy at the relevant point of time is not specifically refuted by the State while filing the above affidavit.

In view of the above, this Court is fully satisfied that procedure prescribed under Section 82 of Cr. P.C. has not been followed properly, in

this case, before passing the impugned order by learned JMIC. Moreover, the petitioner has joined proceedings before learned trial Court and regularly appearing till date, therefore, impugned order dated 30.10.2013 passed by the learned JMIC is set aside and order dated 09.01.2019 granting interim bail to the petitioner, is made absolute, subject to the provisions of Section 438(2) Cr. P.C.

Petition stands disposed off, accordingly.

However, it is made clear that the petitioner shall fully co-operate with the learned trial Court.

The above observations may not be construed as an expression of opinion on the merits of the case.

(MAHABIR SINGH SINDHU)
JUDGE

December 11, 2019

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No