

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203)

CRM-M-36473 of 2020 (O&M)

Date of Decision: 01.03.2021

Sukhdeep Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Anantdeep Singh Sandhu, Advocate, for the petitioner.
Mr. Ramdeep Partap Singh, DAG, Punjab.

Amol Rattan Singh, J. (Oral)

Case heard by way of video conferencing.

This petition has been filed seeking quashing of the impugned order dated 13.08.2019 (corrected on 28.11.2019, copy Annexure P-1), passed by the learned Chief Judicial Magistrate, Moga, in case bearing FIR no.130 dated 20.06.2018, registered at Police Station City Moga, District Moga, for the alleged commission of offences punishable under the provisions of Sections 419, 420, 465, 467, 468, 471 and 120-B of the IPC, it being illegal and contrary to the provisions of Section 82 of the Cr.P.C (as contended).

On 04.12.2020, the following order had been passed:-

“All the cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

Learned counsel for the petitioner submits that the petitioner having last left India on 22.03.2018, he has only now returned on 18.08.2020 on an emergency certificate issued during this pandemic by the Indian High Commission at Malaysia, as his passport stands submitted for renewal to the said High Commission.

He further submits that therefore the petitioner was obviously not in India when he was summoned by the trial court initially, and thereafter when proceedings under Section 82 of the Cr.P.C., were

initiated on 03.05.2019.

Notice of motion is issued, with Mr. Ramdeep Partap Singh, learned AAG, Punjab, accepting notice on behalf of the respondent State on the asking of the court, with respondent no.2 to be served by way of normal process, with such notice issued to be returnable on 08.01.2021.

A gazetted officer is directed to file a reply to the petition.

In the meanwhile, the trial court is directed to send a report to this court as to when the petitioner was first summoned to appear before it and the dates on which bailable warrants were issued and non-bailable warrants were issued, also annexing therewith the statement of the police official who was to serve the warrants issued upon proceedings under Section 82 of the Cr.P.C. having been initiated.

In the meanwhile, upon the petitioner surrendering before the trial court, he shall be admitted to bail by that court to its satisfaction, till the next date of hearing only before this court.

Naturally, it is made clear that if it is found that the petitioner is trying to mislead this court in any manner with regard to the aforesaid contentions, other than the petition obviously being dismissed, appropriate action shall be initiated against him.”

Thereafter, a report from the learned CJM, Moga, dated 15.12.2020, is on record, stating to the effect that the ‘challan’ against the petitioner and his brother has already been presented on 05.11.2020, at which time they were both proclaimed offenders, with non-bailable warrants having been issued pursuant to an application filed on 28.02.2019 by the State.

Otherwise, it has been stated that Sukhdeep (the present petitioner) surrendered before that court on 09.12.2020 and has been released on interim bail on furnishing personal bonds in the sum of Rs.50,000/- and one surety in the like amount.

Learned State counsel submits that though, as recorded in the order dated 08.01.2021, the counsel for the State appearing at that stage had

sought time to file a reply to the petition, he is not pressing the same, in view of the fact that the petitioner has already surrendered and the 'challan' has been presented to the competent court.

That being so, without making any comment on the actual merits of the case, with the petitioner, at least *prima facie*, having shown that he had left India prior to even the FIR having been registered and he has now surrendered on his return from Malaysia, the present petition is allowed and the order dated 13.08.2019 (corrected on 28.11.2019), passed by the learned Chief Judicial Magistrate, Moga, is set aside, with the interim order dated 04.12.2020 made absolute.

01.03.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No