

103/A.

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

CRM-M-48269-2021 (O&M)

Date of Decision: 07.12.2021

AMANDEEP SINGH GREWAL

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Mohit Vashishat, Advocate,
for the petitioner.

JAISHREE THAKUR.J (Oral)

CRM-40926-2021

Application is allowed, as prayed for.

Zimini orders are taken on record.

CRM-M-48269-2021

Counsel for the petitioner herein would pray for setting aside the order dated 17.11.2020 whereby the petitioner has been declared as a proclaimed offender in FIR No.113, dated 07.05.2015, registered under Sections 279, 337, 304-A of IPC at Police Station Tripri Town, Patiala. He would contend that the petitioner had been granted the concession of bail on 24.09.2015 by the learned JMIC, Patiala and pursuant to that, he had been appearing regularly before the court but did not put in appearance on the relevant date as his counsel had told him not to come present in the court

due to Covid-19. It is submitted that his counsel also left practice at Patiala and went to Chandigarh and, therefore, did not inform the petitioner herein of the requirement of his presence before the court and consequently, the petitioner was declared as a proclaimed offender. It is argued that there is a procedural irregularity in passing of the PO order and, therefore, the PO order ought to be set aside. It is further submitted that the petitioner had filed for bail before the learned Additional Sessions Judge, Patiala, however, the same has been dismissed by an order dated 06.09.2021 and certain proceedings had been initiated in this Court for grant of anticipatory bail.

Notice of motion.

At this stage, Ms. Rashmi Attri, AAG, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State and would contend that the petitioner herein has been declared as proclaimed offender as far back as 05.02.2020 and, therefore, deserves no concession by this Court.

I have heard learned counsel for the petitioner and have perused all the interim orders appended thereto.

The petitioner had been allowed regular bail by the Additional Sessions Judge and, thereafter was required to be present as and when required. A perusal of the order dated 01.08.2018 would reflect that the petitioner-accused was absent, consequent to which, notice was issued for 14.08.2018. As the petitioner did not put in appearance again notices were issued but were received back unserved, consequent to which, there was a direction for him to be served through non-bailable warrants for 17.09.2018.

Non-bailable warrants of arrest of the accused were not received back either executed or unexecuted and consequently, the matter was again adjourned for 29.10.2018. As the position remained the same, the matter was again adjourned to 30.11.2018. Similar orders are available on the record to show that despite every effort having been made to serve the petitioner herein, he did not put in appearance in court, consequent to which, notice to his surety was also issued by an order dated 17.01.2019. There are five orders available thereafter i.e. dated 28.02.2019, 24.04.2019, 11.06.2019, 14.08.2019, 14.10.2019 and by an order dated 16.12.2019, the Chief Judicial Magistrate, Patiala had directed proclamation to be issued under Section 82 Cr.P.C. to ensure the presence of the petitioner herein. As proclamation had been effected and the petitioner herein did not put in appearance, the court had no option but to order warrant of arrest of the property of the surety, consequent to which, the petitioner was declared as proclaimed offender by the impugned order dated 17.11.2020. The statement that has been given in the court that the petitioner did not put in appearance due to Covid-19 cannot be taken at face value considering that in the year 2018, there was no mention of the said pandemic. A perusal of the zimini orders would reflect that as many as 8 to 10 opportunities had been given to the petitioner herein to present himself and even to the extent that notices were issued to the surety and despite such effort made by the Court to secure his presence, he did not do so. When the proclamation was issued, there was no pandemic. The courts were still functional and the closure of the courts are only came into effect on 23.03.2020 while after the date of appearance in the court. Even on

17.11.2020 the date when the petitioner herein had been declared as a proclaimed offender, there was a truncated working of the court and the petitioner herein cannot hide behind. The plea that he was told by his counsel not to put in appearance on account of Covid-19 pandemic, in the opinion of the Court, the petitioner herein does not deserve any leniency and, therefore, finding no merit in the petition, the same stands dismissed. However, in case the petitioner surrenders within a week, the trial Court is directed to decide the bail application within a week expeditiously preferably within a week thereafter. Needless to say, any observation made herein are only for the purpose of deciding the instant petition.

(JAISHREE THAKUR)
JUDGE

07.12.2021

sanjeev

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No