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

CRM-M-4376-2022

Date of decision : 03.02.2022

Jarnail Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ravi Chadda, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of FIR No.221 dated 01.09.1987 registered under Section 411 of the Indian Penal Code, 1860 at Police Station Tanda, District Hoshiarpur (Annexure P-1) and all the subsequent proceedings arising therefrom including the order dated 15.04.1991 declaring the petitioner as proclaimed offender.

Learned counsel for the petitioner has submitted that in the present case, FIR had been registered against the present petitioner and one Joginder Singh. It is further submitted that vide judgment dated 21.07.2007 (Annexure P-2), the said Joginder Singh had been acquitted as the case

could not be proved against the said Joginder Singh beyond reasonable doubt. It is argued that the allegations against the present petitioner were similar to the allegations made against Joginder Singh. It is further argued that the petitioner was declared as Proclaimed Offender behind his back, while he was abroad, and that even the said order dated 15.04.1991 is not available inasmuch as file of the present case had been burnt. Reliance has been placed upon the judgment of Division Bench of this Court in **Sudo Mandal @ Diwarka Mandal Vs. State of Punjab**, reported as **2011(2) RCR (Criminal) 453**.

Learned counsel for the petitioner has contended that in the present case, the petitioner is limiting his prayer to the relief that the order declaring him as Proclaimed Offender dated 15.04.1991 be set aside subject to him appearing before the Investigating Officer within a period of one month from today and with further prayer that the petitioner be ordered to be released on bail on such appearance before the Investigating Officer.

Notice of motion.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition.

This Court has heard the learned counsel for the parties and has perused the record.

A perusal of the record would show that the present FIR was registered under Section 411 of IPC against the present petitioner and Joginder Singh. The said Joginder Singh had been acquitted vide judgment

dated 21.07.2007 passed by the Judicial Magistrate Ist Class, Dasuya. As per learned counsel for the petitioner, the said judgment has attained finality. It is further the case of the petitioner that the petitioner was declared as Proclaimed Offender vide order dated 15.04.1991, when the petitioner was abroad and thus, procedure under Section 82 of Cr.P.C. was not followed. The petitioner is also stated to be ready to return to India and to join the investigation.

Keeping in view the abovesaid facts and circumstances, the present petition is partly allowed and order dated 15.04.1991, declaring the petitioner as Proclaimed Offender, is set aside subject to the petitioner appearing before the concerned trial Court within a period of one month from today and on his such appearance, the petitioner would be released on bail by executing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

The Airport Authorities are also directed to not arrest the petitioner, in case, he returns to India upto 03.03.2022.

It is made clear that in case, the petitioner does not return to India upto 03.03.2022, and does not appear before the concerned trial Court within the said period, then the present petition would be deemed to have been dismissed.

03.02.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**