

CRM-M No. 6542 of 2022
Reserved on:14.03.2022
Pronounced on : 30.03.2022

Arun KumarPetitioner

Vs.

State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. H.S. Deol, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Section
37	18.06.2012	Mukandpur, S.B.S. Nagar	25, 54, 59 of Arms Act

Seeking quashing of proclamation order dated 24.03.2014 (Annexure P-4) passed by Learned Judicial Magistrate Ist Class, SBS Nagar, the accused has come up before this court under Section 482 of the Code of Criminal Procedure, 1973 (CrPC).

2. Petitioner was arraigned as an accused in the above captioned FIR, Annexure P-2. The said FIR no. 37 was registered on 18-06-2012, in Police Station Mukandpur, SBS Nagar, Punjab. In this FIR, the petitioner was declared a proclaimed offender vide the impugned order dated 24-3-2014, passed by Id. JMIC, SBS Nagar.

3. Another FIR no. 35, Annexure P-1, was registered against the petitioner on 12-06-2012, in Police Station Mukandpur, SBS Nagar, Panjab. The petitioner claims that in this FIR, he was prosecuted and finally acquitted by Sessions Court on 26-11-2014. The point to which the petitioner wants to draw the attention of this court is that if he was regularly appearing in one case under the same police station, then why would he avoid appearing in other or can be stated not residing at the same address. The State could not dispute the factual matrix at this stage.

4. A perusal of the order sheets, reproduced in paragraph 6 of the petition reveals that the non-bailable warrants were unexecuted. The petitioner was also an accused in another FIR in

the same police station, and he had duly appeared in such. It establishes beyond any doubt that the petitioner was not aware of the other case, and the police made no sincere efforts to execute warrants, which led to the issuance of the proclamation.

5. Given the above, the petitioner has made a case on the preponderance of probability that neither any sincere attempt was made to execute the warrants nor did the petitioner have any knowledge about appearance as contemplated under section 82 CrPC. Thus, the order is arbitrary and did not afford reasonable opportunity as mandated under Section 82 of CrPC.

6. Consequently, the impugned order dated 24-3-2014, passed by Id. JMIC, SBS Nagar, Annexure P-4, is set aside. Resultantly, the non-bailable warrants issued against the petitioner in the FIR captioned above, shall not be enforced. The petitioner is directed to appear before the concerned court within thirty days. He shall be at liberty to apply for bail, in any court following the law. If the petitioner fails to appear within thirty days from today, it might be considered that if released on bail, it may not be feasible to produce the accused to face the trial.

Petition allowed in the terms mentioned above.

(ANOOP CHITKARA)
JUDGE

30.03.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: **No.**