

111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9558-2022

Date of Decision: 29.11.2022

RAMANDEEP KAUR

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Vinay Kumar, Advocate for the petitioner.

Mr. Amish Sharma, AAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

Through instant petition under Section 482 of Code of Criminal Procedure, 1973, the petitioner is seeking quashing of order dated 11.06.2019 (Annexure P-4) passed by Judicial Magistrate 1st Class, Patti whereby the petitioner has been declared as a proclaimed person in case FIR No.159 dated 03.07.2017 (Annexure P-1) under Section 420 and 34 IPC of 1860 registered at P.S. Bhikhiwind, District Tarn Taran.

Learned counsel for the petitioner inter alia submits that co-accused-Pragat Singh was granted anticipatory bail by learned ASJ, Tarn Taran, vide order dated 13.12.2018. The petitioner has been declared proclaimed person under Section 82/83 Cr.P.C without compliance of procedure prescribed under aforesaid sections. The petitioner could not join proceedings because petitioner was unaware of the proceedings. The petitioner left for France on 27.05.2016 and FIR was registered in 2017. The petitioner till date has not come to India. The petitioner is willing to pay costs of Rs.25,000/-.

Intent of arrest and reason of denial of bail is to secure the appearance of the accused at the time of trial. A person who seeks to be liberated must take judgment and serve sentence in the event of his conviction. The nature of the crime charged, severity of punishment

prescribed, prime facie available evidences, history & background of the accused may indicate that any amount of bond and surety is not going to secure presence of accused, at the time of conviction.

The object of arrest is neither punitive nor preventive. Detention or arrest not only deprives a person from his fundamental right of personal liberty guaranteed by Article 21 but also freedom guaranteed by Article 19(1) of our Constitution. Life of every human being is most precious gift of God and everyone has very limited span of life which cannot be spoiled on account of incompetence, personal grudge, vengeance of someone; or brutal, illegal, unethical action of the State machinery. Except habitual offender, commoners living simple life after arrest lose self-respect and confidence within himself as well State. It has become very common to put criminal law in motion even though dispute involved is purely contractual or civil in nature. Many times arrest entails deprivation of source of income of entire family besides forever stigma in a closely knit society like ours. There is neither mechanism to compensate a man who is later on found innocent nor acquittal can return valuable time, energy, status, future of family members especially children which is lost on account of incarceration of bread earner of the family. Imprisonment before conviction is a sort of punishment especially when rate of conviction in our country is abysmally low.

Keeping in mind:

- i) The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure his presence. The petitioner has come forward to face trial and undertakes to appear before trial court on each and every date, thus ,his presence would meet ends of

justice;

- ii) The Petitioner for wasting valuable time and energy of courts as well prosecution is willing to pay costs of Rs. 25,000/-;
- iii) The Petitioner is ready to furnish bond/surety to the satisfaction of the trial court;
- iv) The Petitioner is not involved in any other offence;
- v) The petitioner left India in 2016 and present FIR came to be registered in 2017;
- vi) The petitioner is accused of commission of compoundable offence.
- vii) Trial is pending since 2017 and petitioner is ready to to fact trial, thus, no prejudice is going to cause to prosecution or complainant;

this court is of the considered opinion that present petition needs to be allowed, and accordingly, petition is allowed. The petitioner is directed to appear before Trial Court on or before 29.12.2022 and on his doing so, the Trial Court shall release him on bail, on his furnishing bail bond/surety bond to its satisfaction. The petitioner, as agreed shall pay costs of Rs.25,000/- to be paid to District Legal Services Authorities, Tarn Taran.

Disposed of.

(JAGMOHAN BANSAL)
JUDGE

29.11.2022

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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>