

(129) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13876-2022(O&M)
Date of Decision: 04.04.2022

Jagdeep Singh

... Petitioner

Versus

State of U.T. Chandigarh

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Anureet Singh Sidhu, Advocate for the petitioner.

Mr. J.S. Toor, A.P.P. U.T. Chandigarh.

JASJIT SINGH BEDI, J.

The prayer in the present petition is for quashing of the order dated 08.04.2021 (Annexure P-2) passed by the learned Judicial Magistrate, 1st Class, Chandigarh, whereby the petitioner has been declared a proclaimed person in FIR No.10 dated 09.01.2018 registered under Section 411 IPC, 1860, at Police Station Sector-39, Chandigarh.

2. The brief facts of the case are that the petitioner was arrested in the aforementioned FIR and thereafter was granted the concession of bail. On 19.07.2019, the petitioner did not appear before the learned trial Court and his bail order was cancelled and non-bailable warrants were issued against him vide order dated 19.07.2019 (Annexure P-1).

3. Pursuant thereto, proclamation was executed on 08.03.2021 and on his non-appearance, the petitioner was declared proclaimed person vide impugned order dated 08.04.2021 (Annexure P-2).

4. The learned counsel for the petitioner states that in fact, the petitioner had been arrested in another case and was granted bail only on 03.03.2021. He refers to the custody certificate (Annexure P-3) dated 21.10.2021 to buttress his argument. He contends that the provisions of Section 82 Cr.P.C. have been violated and no production warrants were taken to Central Jail, Patiala to produce him in Court in the present case. He further contends that the proclamation was not publicly read in some conspicuous place in the village or town in which the accused was ordinarily residing and thus, the entire proceedings initiated under Section 82 Cr.P.C. stands vitiated and therefore, the order dated 08.04.2021 (Annexure P-2) ought to be quashed.

5. On the other hand, the learned counsel for U.T. Chandigarh has argued that the petitioner first absented himself on 19.07.2019, though, he was arrested in the other FIR only on 16.08.2019 and thus, nothing prevented him from appearing in Court on 19.07.2019. He submits that the petitioner was granted bail in the other FIRs registered against him on 03.03.2021 but the serving Constable executed the proclamation only on 08.03.2021 and the petitioner was declared a proclaimed person on 08.04.2021 i.e. after his release on bail meaning thereby that the petitioner had ample opportunity to appear and join proceedings in FIR No.10 dated 09.01.2018 registered under Section 411 IPC, 1860, at Police Station Sector-39, Chandigarh. He, lastly argued that the present petition has also been filed after one year of him being granted bail in March, 2021 and thus, the conduct of the petitioner even post being granted bail does not entitle him to the concession as prayed for.

6. I have heard the learned counsel for both the parties.

7. Admittedly, the petitioner was regularly appearing in Court upto 19.07.2019. There is no justifiable reason for him not to have appeared in Court on that day, moreover, when he was arrested in the other case only on 16.08.2019. Further, he was granted bail in the other cases on 03.03.2021 (Annexure P-3) but was declared proclaimed person only on 08.04.2021 i.e. after he was granted bail, thus, nothing prevented the petitioner from joining proceedings between 03.03.2021 and 08.04.2021. It would be relevant to mention here that the present petition has been filed on 29.03.2022 i.e. more than one year after the petitioner was granted bail in the other cases against him on 03.03.2021. This delay in filing of the present petition for quashing of the order 08.04.2021 (Annexure P-2) also shows that the conduct of the petitioner. Even otherwise, the provisions of Section 82 Cr.P.C. have not been violated in any manner whatsoever. The petitioner having appeared in the current FIR from time to time knew very well that the case was pending against him but despite that fact, he chose to abscond leading to the passing of the impugned order.

8. In view of the aforesaid discussion, I find no reason to interfere with the order dated 08.04.2021 (P-2).

9. Hence, the present petition for quashing of the order dated 08.04.2021 (P-2) is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

04.04.2022

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No