

123

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

**CRM-M-14336-2022 (O&M)
Date of Decision:05.04.2022**

Gurmukh Singh

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Chanchal K. Singla, Advocate for the petitioner.

...

MANOJ BAJAJ, J.

The petitioner has filed this petition under Section 482 Cr.P.C. to challenge the order dated 01.09.2018 (Annexure P-10) passed by JMIC, Malerkotla, whereby the petitioner was declared as an absconder in relation to case FIR No.130 dated 29.09.2017, registered under Sections 420, 467, 468, 471 and 506 IPC, at Police Station Amargarh, District Sangrur (Annexure P-1).

Learned counsel for the petitioner has argued that the FIR (Annexure P-1) was registered against him in September, 2017, but as the petitioner had already left India on 26.06.2017, therefore, he was not aware of this case. In this regard, he has invited the attention of the Court to the copy of his passport (Annexure P-2). He submits that after registration of the case, the attempts were made by police to secure his presence and even arrest warrants were issued against him, but the same were never executed, therefore, the proceedings under Section 82 Cr.P.C. were initiated, whereupon he was declared as absconder (proclaimed person) vide order dated 01.09.2018 (Annexure P-10). Learned counsel has argued that a clear thirty days notice

was not provided to the petitioner for putting in appearance, therefore, the impugned order is not sustainable and deserves to be set aside. In support of his arguments, learned counsel has drawn the attention of the court to the decisions dated 14.02.2022 (Annexure P-11) and 31.03.2022 (Annexure P-12), respectively passed in relation to case FIR No.107 dated 09.08.2017 under Sections 420, 465, 468 and 471 IPC and Section 25 Immigration Act, 1983, and FIR No.106 dated 09.08.2017 under Sections 420, 465, 468, 471 IPC and Section 24 Immigration Act, 1983, both registered at Police Station Amargarh, District Sangrur, wherein also the petitioner being an accused stood declared as proclaimed offender in similar manner and this Court had set aside those impugned orders. He prays that the impugned order dated 01.09.2018 relating to FIR (Annexure P-1) be also quashed.

During the course of hearing, when learned counsel was asked to apprise about the present place of residence of the petitioner, Mr. Singla, learned counsel has stated that the petitioner upon his return to India was arrested by police on 24.05.2021, and is presently confined in judicial custody. He further states that in the other cases also, wherein the similar orders have been quashed by this Court, the petitioner already stood arrested on the same date and this fact was brought to the notice of both the Co-ordinate benches.

After hearing the learned counsel and considering the above background, this Court finds that the petitioner has challenged the order dated 01.09.2018 after a long delay and that too after his arrest on 24.05.2021, in the subject FIR. The perusal of the decision dated 14.02.2022 (Annexures P-11) shows that this Court while setting aside the impugned order of declaring the petitioner as proclaimed offender, on 14.02.2022 directed that in case the

petitioner is in India, he shall surrender forthwith, and if, he is still residing abroad, the Magistrate shall take appropriate steps to validly serve him. Similarly, the other order dated 31.03.2022 (Annexure P-12) passed in CRM-M-51824-2021, by another co-ordinate Bench of this Court while setting aside the impugned order declaring him proclaimed offender had stayed the execution of the arrest warrants against the petitioner and further granted him thirty days time to appear before trial Court in order to seek bail.

Thus, the reliefs granted to the petitioner through Annexures P-11 and P-12 do not suggest that the important fact relating to arrest of petitioner was noticed by this Court, and according to the learned counsel, this material fact escaped attention of both the Coordinate benches. This explanation offered by the learned counsel is not worth acceptance, as concededly, in this petition also, there is no specific averment regarding the arrest of the accused on 24.05.2021. At this stage, learned counsel for the petitioner has pointed out that in the memo of parties, it is mentioned that the petitioner is confined in District Jail Nabha, therefore, there is no concealment on the part of the petitioner. However, in the considered opinion of this Court, this disclosure alone may not be sufficient, as the petitioner is involved in number of criminal cases, therefore, it becomes imperative for him to reveal the fact of his arrest relating to each and every FIR. It needs to be noticed here that the petitioner has relied upon these decisions dated 14.02.2022 and 31.03.2022 (Annexures P-11 and P-12, respectively), but admittedly, no application for modification/clarification of these orders was filed.

Consequently, these orders dated 14.02.2022 and 31.03.2022 (Annexures P-11 and P-12) do not lend any strength to the arguments raised by

the learned counsel and cannot be treated as binding precedents. Further, the grounds raised in this petition to challenge the impugned order have neither been supported with an affidavit of the petitioner nor the pleadings have been signed or verified by him, therefore, this Court is not inclined to exercise the inherent powers under Section 482 Cr.P.C as the petitioner already stands arrested.

Resultantly, petition fails and is dismissed.

05.04.2022
Jasmine Kaur/vanita

(MANOJ BAJAJ)
JUDGE

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