

266-C

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

CRM-M-24172-2017 (O&M)

Date of decision : 29.10.2022

Gurmail Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Harparteek S. Sandhu, Advocate for the petitioner.

Mr. Iqbal S. Mann, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 01.12.2016 (Annexure P-4) declaring the petitioner as proclaimed offender passed by the Court of PCS, JMIC, Malerkotla in FIR No.39 dated 03.05.2014 registered under Sections 420, 467, 120-B of Indian Penal Code, 1860 and Section 82 of Registration Act, at Police Station Sandaur, District Sangrur.

On 12.07.2017, a Coordinate Bench of this Court was pleased to pass the following order:-

"RAMENDRA JAIN, J. (ORAL)

In the instant petition under Section 482 Cr.P.C. prayer has been made for quashing the order dated 01.12.2016 (Annexure P-4) passed by learned JMIC, Malerkotla, declaring the petitioner as proclaimed offender in case arising from FIR No.39 dated 03.05.2014 under Sections 420, 467, 120-B and Section 82 of the Registration Act.

Learned counsel for the petitioner contends that the

petitioner is permanently residing in Canada. He never visited India after registration of the aforesaid FIR till date. Service of summons was never effected upon the petitioner in Canada. He further contends that the petitioner is ready to appear before the trial Court.

Heard.

In view of above factual position, petitioner is directed to appear before the trial Court on or before 15.09.2017. In the meanwhile, petitioner shall not be arrested in this case only.

Disposed of.

Sd/-(RAMENDRA JAIN)

July 12, 2017

JUDGE ”

Learned counsel for the petitioner has pointed out that, thereafter, an application bearing No.CRM-27877-2017 for extension of time was filed by the petitioner and the petitioner had subsequently also filed another application bearing No.CRM-42580-2018 for clarification/modification of order dated 21.11.2018 and in the said application, the following order was passed on 05.12.2018 by the Coordinate Bench of this Court:-

“This is an application for clarification/modification of order dated 21.11.2018 passed in connected matters i.e. CRM-M Nos.23613, 23761-2017 and CRM-M-23659-2017, wherein no order in CRM-27877- 2017, that was listed and heard together, was passed.

Vide order dated 12.03.2018, this matter was ordered to be listed along with CRM-M-23761-2017. However, on 21.11.2018 in CRMM-23761-2017, the following order was passed :-

“List on 28.03.2019.

However, petitioner is directed to surrender before the learned trial court within one month and on doing so, he shall be released on bail by that court to its satisfaction.

In the meantime, operation of the impugned orders dated 13.10.2016 (Annexure P-6) in CRM-M Nos.23613, 23761-2017 and 01.12.2016 (Annexure P-4) in CRM-M-23659-2017, shall remain stayed.

A photocopy of this order be placed on the file of connected cases”.

But no order was passed in the present case.

In this view of the matter, petitioner is directed to surrender before the learned trial court within one month and on doing so, he shall be released on bail by that court to its satisfaction.

Application stands disposed of accordingly.

December 05, 2018

Sd/- (RAJ SHEKHAR ATTRI)

JUDGE”

Learned counsel for the petitioner, in pursuance of the abovesaid order, has submitted that the petitioner has appeared before the Court of Judicial Magistrate Ist Class, Malerkotla on 20.12.2018 and has passed on a photocopy of order dated 20.12.2018 during the course of arguments which is taken on record and marked as Mark 'X', and as per the same, the petitioner had appeared and had been released on bail. The order dated 20.12.2018 is reproduced hereunder:-

“Present:- Sh. Savinder Saini, APP for State.

Accused Gurmail Singh and Beant Kaur in

person with counsel Sh. Ajay Sharma, Adv.

File taken up today from the record room on moving application by the accused-applicant named above for releasing them on bail and for accepting their bail bonds. Along with application, they have placed on record certified copy order dated 05.12.2018 passed in CRM-M-42580-2018 in CRM-M-24172 of 2017 and CRM-M-Nos.23613, 23659 and 23761 of 2017 (O&M) by Hon'ble High Court. In the light of above orders accused-applicant Gurmail Singh and Beant

Kaur are ordered to be released on bail subject to furnishing of bail bonds in the sum of Rs.50,000/- each with one surety of like amount each. Requisite bonds furnished which are accepted and attested. Let, file be put up on 08.01.2019 the date already fixed.

Dec 20, 2018

Sd/- (Bikramdeep Singh), PCS

JMIC/Malerkotla,

UID No.PB0396

Next Date:08.01.2019”

Learned counsel for the petitioner has submitted that the petitioner is now regularly appearing before the trial Court.

Learned counsel for the State, on instructions from ASI Jaswinder Kumar, has submitted that the petitioner has appeared before the trial Court and is now regularly appearing before the Court.

Keeping in view the abovesaid facts and circumstances, more so the facts that in pursuance of order dated 05.12.2018, the petitioner has appeared and is regularly appearing before the trial Court and it has been recorded in order dated 12.07.2017 that notices were never sent to the petitioner as he was residing in Canada, the present petition is allowed and the order dated 01.12.2016 (Annexure P-4) passed by JMIC, Malerkotla, is quashed.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

29.10.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No