

108+234

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31764-2017 (O&M)

Date of Decision:13.12.2022

SUKHDARSHAN KAUR UPPAL @ DARSHAN KAUR & ANR

..... Petitioners

Versus

STATE OF PUNJAB & ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Ishan Gupta, Advocate for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

Mr. G.S. Dhillon, Advocate
for respondent No.4.

JAGMOHAN BANSAL, J. (Oral)

CRM-48239-2022

Application for placing on record copy of compromise dated 14.07.2022, is allowed, in view of the averments made in the application, duly supported by affidavit. Said document is taken on record. Office to append the same at appropriate place.

CRM stands disposed of.

CRM-M-31764-2017

Through instant petition under Section 482 of Code of Criminal Procedure, 1973, the petitioners are seeking quashing of FIR No.93 dated 19.06.2005 (Annexure P-1) under Sections 323, 342, 148 and 149 of IPC registered at Police Station Raikot, District Ludhiana, summoning order dated 07.02.2017 (Annexure P-5) under Section 319

Cr.P.C. and order dated 31.10.2012 (Annexure P-6) passed by Sub Divisional Judicial Magistrate, Jagraon whereby the petitioners have been declared proclaimed persons

Learned counsel for the petitioners *inter alia* submits that petitioner No.1 left India alongwith her husband on 11.05.2002. The petitioners visited India on 15.11.2002 on account of marriage of petitioner No.2 and returned back to Canada on 12.02.2010. The petitioner No.2 visited India on 10.12.2009 and returned back to Canada on 11.05.2010. The impugned orders dated 07.02.2007 and 31.10.2012 were passed at the back of the petitioners. The petitioners were initially found innocent. The petitioners were never served impugned orders, thus, there is non-compliance of Section 82 Cr.P.C. The petitioners would come to India and join proceedings on or before 15.02.2023. He further submits that it is pure family dispute which has been settled between the parties and for the said purpose the compromise has been arrived at between the parties. He further undertakes to pay the costs of Rs.35,000/-.

Mr. G.S. Dhillon, Advocate appearing on behalf of respondent No.4 submits that the matter has been amicably settled between the parties and he has no objection, if impugned orders are quashed and petitioner is permitted to join the proceedings.

Mr. Digvijay Nagpal, AAG, Punjab submits that State has no objection if the present petition is disposed of, subject to costs.

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.

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. 35000/-;
- 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) Co-accused(s) has already been released on probation, thus, possibility of conviction is abysmally low;
- vi) The petitioner was initially found innocent and thereafter Court framed charges and declared the petitioners proclaimed offender;
- vii) The petitioner is accused of commission of bailable, compoundable offence and parties have compromised the matter.
- viii) Trial is pending since 2005 and petitioner is ready to face 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 petitioners are directed to appear before trial Court on or before 15.02.2023 and on their doing so, the trial court shall release them on bail on their furnishing bail bonds. The petitioners, as agreed, shall pay costs of Rs.35,000/- to the Director PGI Poor Patient Fund, Chandigarh.

Disposed of in above terms.
In the meantime, the operation of order dated 31.10.2012
(Annexure P-12) shall remain stayed.

(JAGMOHAN BANSAL)
JUDGE

13.12.2022
Ali

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