

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

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CRM-M-38330-2022

Date of Decision: 30.11.2022

AMANDEEP SHARMA**...Petitioner****Versus****UNION TERRITORY OF CHANDIGARH****...Respondent****Coram: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Jimmy Singla, Advocate,
for the petitioner

Mr. Yuvraj Rathore, Advocate, for
Mr. Y.S. Rathore, Addl. PP, U.T., Chandigarh

JAGMOHAN BANSAL, J. (ORAL)

The petitioner through instant petition is seeking quashing of order dated 29.07.2022 (Annexure P-2) whereby learned JMIC, Chandigarh has declared the petitioner proclaimed person in FIR No.74 dated 19.03.2012 (Annexure P-1) registered under Sections 420, 467, 468, 471 and 120-B of IPC, registered at Police Station Sector 36, Chandigarh.

Learned counsel for the petitioner submits that petitioner was not named in the FIR. The petitioner was released on bail and thereafter regularly appearing before the trial Court, however, could not appear on 21.12.2021 and trial Court cancelled his bail bonds and issued non-bailable warrants for his arrest. Learned trial Court vide order dated 29.07.2022 has declared the petitioner as proclaimed person. The petitioner is an illiterate person and is not involved in any other offence. The petitioner is ready to pay costs of Rs.10,000/- in favour of District Legal Services Authority, Chandigarh.

Notice of motion.

Mr. Yuvraj Rathore, Advocate, Addl. PP, U.T., Chandigarh accepts notice on behalf of respondent-State and 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 & amp; 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.10,000/-.
- (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 on many dates has appeared appeared before trial court;
- (vi) Trial is pending since 2012 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 petitioner is directed to appear before Trial Court on or before 23.12.2022 and on his doing so, the trial court shall release him on bail on his furnishing bail bonds. The petitioner, as agreed, shall pay costs of Rs.10,000/- to the District Legal Services Authorities, Chandigarh.

Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

02.12.2022

mohit kumar

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No