

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

304

CRM-M-37113-2022 (O&M)

Date of Decision: 12.12.2022

MANISH JALHOTRA

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Rajesh Anand, Advocate
Mr. Aviral Mittal, Advocate and
Mr. Gaurav Adlakha, Advocate
for the petitioner.

Mr. Pawan Kumar Jhanda, AAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

Challenge is to the order dated 27.07.2022 passed by the learned Judicial Magistrate, 1st Class, Jagadhri, Yamuna Nagar, vide which the petitioner has been declared as a proclaimed offender in FIR No.34 dated 28.08.2020, registered under Sections 302, 34 and 120-B IPC and Section 25 of the Arms Act, at Police Station Gandhi Nagar, District Yamuna Nagar.

Learned counsel for the petitioner submits that the petitioner was indicted in the present case on the basis of the second disclosure statement of co-accused, namely, Arun Kumar @ Rindal, who has since been granted the concession of bail; that the petitioner has been residing abroad (Thailand) since December, 2013, as would decipher from the copies of the passports placed on record as Annexures P-13 and P-14; that the petitioner has never visited India since December, 2013; that

without verifying the parentage and address of the petitioner, non-bailable warrants had been issued against him and thus, the proceedings initiated under Section 82 Cr.P.C. against him, is bad in the eyes of law; that the proclamation warrants were never served on the petitioner, at any stage and that, even as per the report of the Executing Constable, no such person in the name of Manish Jalhotra son of Laxman Dass Jalhotra, had been residing at the given address for the last 20 years. He further submits that the petitioner is ready and willing to join the proceedings before the Court below.

Per contra, learned State counsel has opposed the prayer made in the present petition contending that the petitioner was rightly declared as the proclaimed offender, after following the due procedure of law and thus, the present petition is liable to be dismissed.

I have heard the learned counsel for the parties.

As per the copies of the passports (Annexures P-13 and P-14), the petitioner has been residing in Thailand since December, 2013. The address of the petitioner, as mentioned in the passport is #65/2, 3rd Floor, New Rohtak Road, Karol Bagh, Delhi, whereas the proclamation warrants were issued against the petitioner at #52/55, 4th Floor, Ramjas Road, Delhi, Karol Bagh. Address of the petitioner i.e. #65/2, 3rd Floor, New Rohtak Road, Karol Bagh, Delhi, has also been mentioned in the Electoral Roll 2022, U05, issued by NCT of Delhi (Annexure P-12). Thus, the proceedings initiated against the petitioner at #52/55, 4th Floor, Ramjas Road, Delhi, Karol Bagh, is not tenable in the eyes of law.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua them. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

The petitioner is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is allowed and the order dated 27.07.2022 passed by the learned Judicial Magistrate, 1st Class, Jagadhri, Yamuna Nagar along with all the consequential proceedings arising therefrom, are hereby set aside, qua the petitioner only, subject to him depositing the costs of Rs.15,000/- with the concerned District Legal Services Authority.

12.12.2022

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>