

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

CRM-M-37284-2022

Date of Decision: September 05, 2022

Ashvani Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. H.S. Saini, Advocate, for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

SANJAY VASHISTH, J.

By way of present petition, petitioner seeks quashing of impugned order dated 16.09.2016 (Annexure P-2), passed by learned Chief Judicial Magistrate, Ropar, vide which petitioner has been declared proclaimed offender because of his non-appearance in case FIR No. 70, dated 27.04.2015 (Annexure P-1), under Sections 406, 420, 467, 468, 506 and 120-B IPC, registered at Police Station City, Rupnagar, District Rupnagar.

Learned counsel for the petitioner submits that in the main matter parties have already amicably settled the dispute by way of written compromise dated 10.08.2022 (Annexure P-3), and on the basis of said compromise a separate petition, under Section 482 Cr.P.C., i.e. CRM-M-37279-2022, titled as 'Ashwani Kumar v. State of Punjab and others', has already been filed by the petitioner, seeking quashing of aforementioned FIR and all the subsequent proceedings arising

therefrom. Learned counsel further states that the said petition is now fixed for 29.09.2022 and vide order dated 23.08.2022, parties were directed to present themselves before the Illaqa Magistrate/trial Court for getting their statements recorded with regard to the factum of compromise so effected between them and the Illaqa Magistrate/trial Court has been directed to send a report along with statements of the parties with regard to the validity or otherwise of the compromise so effected between the parties, which is awaited.

Learned counsel for the petitioner further submits that in case petitioner is given one chance to appear and released on bail, he would be able to get his statement recorded in compliance of the order dated 23.08.2022, passed by this Court in CRM-M-37279-2022

Per contra, learned State counsel opposes the aforementioned submission by submitting that the petitioner does not deserve any leniency because about six years have already elapsed during which the petitioner remained absent from court, as a result of which the case could not proceed further for such a long time.

I have heard learned counsel for the parties and perused the record.

Undoubtedly, petitioner deserves some punishment because he is on run since 16.09.2016 and on that count trial in the present case could not proceed any further. But at the same time, it would not serve purpose of either side, inasmuch as, already matter is pending before the Court without any proceeding for about six years. Therefore, taking into

account paramount consideration of the Court to secure presence of the accused and to speed up the trial, it would be appropriate to grant one opportunity to the petitioner to appear before the trial Court as also to grant him concession of bail in case he appears before the concerned Court and as a punishment some cost be imposed upon him.

In view of above, this petition is allowed. Petitioner is directed to appear before the learned trial Court/Illaq Magistrate/Duty Magistrate on or before 12.09.2022 and furnish an undertaking that he would not repeat such default and would join Court proceedings on each and every date, except with prior permission of the court.

It is ordered that in case petitioner appears before the learned trial Court/Illaq Magistrate/Duty Magistrate within time given, he would be released on bail, subject to furnishing bail/surety bonds to the satisfaction of the Court concerned.

However, this order shall be subject to payment of an amount of Rs.10,000/- as costs, to be deposited with the Member Secretary, District Legal Services Authority, Rupnagar.

Needless to mention here that once petitioner complies with the conditions detailed here-in-above, impugned order dated 16.09.2016 (Annexure P-2), would become inoperative qua petitioner only.

(SANJAY VASHISTH)
JUDGE

September 05, 2022

Pkapoor

Whether Speaking/Reasoned: **YES/NO**

Whether Reportable: **YES/NO**