

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

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**CRM-M-44016-2022
Decided on : 22.09.2022**

Dilaver Chand

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Amandeep Saini, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., petitioner is seeking quashing of impugned order dated 26.07.2019 (Annexure P-7), vide which the petitioner has been declared as proclaimed person by the court of Ld. Sub Divisional Judicial Magistrate, Nangal, in case FIR No. 38, dated 28.03.2018, under Sections 323, 326, 34 of IPC, registered at Police Station Nangal, District Rupnagar.

Since the impugned order pertains to 26.07.2019, this Court has asked the counsel for the petitioner as to whether subsequent thereto any FIR under Section 174-A IPC, has been registered or not ? After seeking necessary instructions, learned counsel for the petitioner makes statement that till date no FIR under Section 174-A IPC has been registered in pursuance to the order dated 26.07.2019 (P-7).

Learned counsel for the petitioner submits that on 26.04.2018,, petitioner had gone abroad (Saudi Arabia), and thereafter, returned on 05.10.2021. Again petitioner went abroad on 30.11.2021 and came back to India on 10.09.2022 and since then, petitioner is staying in India. He refers

to the order dated 20.05.2019 (P-3), wherein, Court has noticed the service report that petitioner has already left India and gone abroad and despite of noticing said aspect, written proclamation under Section 82 Cr.PC, was issued for 04.06.2019.

Learned counsel for the petitioner further refers to the order dated 29.05.2019 passed by Ld. SDJM, Nangal, in furtherance to the order dated 28.05.2019, in which notice for proclamation were issued, for appearing on 04.06.2019. However, subsequently, vide impugned order dated 26.07.2019 (P-7), petitioner was declared proclaimed person.

Learned counsel for the petitioner submits that from the proceedings recorded by the Court of Ld. Magistrate, it is clear that factum of registration of FIR or issuance of notices, was never in knowledge of the petitioner, who was staying abroad for most of the time. Therefore, he seeks one opportunity to appear before Ld. Court below, subject to payment of costs.

Notice of motion.

On asking of the Court, Mr. AS Sandhu, AAG, Punjab, accepts notice on behalf of the respondent (State). Copy of the petition has already been supplied to him by learned counsel for the petitioner.

After hearing learned counsel for the parties and perusing the relevant material on record, I find that once there is recording of fact by the Ld. Magistrate, in its order dated 20.05.2019 that as per report, petitioner had left India and gone abroad, there could not be any reason for proceeding further for making publication or issuing notices etc. at the same address for the purpose of appearance of the petitioner.

Still, without going into the facts and the reasons behind the

absence of the petitioner after registration of FIR on 28.03.2018, this Court is more concerned with securing the presence of the accused, especially, when he himself desires to appear before the Court, with a request to be released on bail. Undoubtedly, appearance of the petitioner before the Court will help in moving the proceedings of the trial further and to decide the matter before it. Nothing would be achieved, if the petitioner's request is not accepted because in that situation, he may further make attempts to avoid his appearance before the Court, and that will result into prolonging of the proceedings of the main FIR case.

Therefore, in the totality of circumstances, I am of the view that if petitioner is given one chance to appear before the trial Court, subject to payment of Rs.10,000/- as costs, to be deposited with the District Legal Services Authority, Rupnagar, purpose of securing his presence would be served and lot of exercise, time and energy can be saved.

Therefore, it is directed that if petitioner on his own appears before the learned trial Court on or before 26.09.2022, he would be released on bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would submit specific undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

In view of above, the present petition is allowed. However, it is made clear that the bail order would be subject to the deposit of an amount of Rs.10,000/- to be deposited with the District Legal Services Authority, Rupnagar.

Needless to mention here that on compliance of all the

conditions mentioned hereinabove, impugned order dated 26.07.2019 (Annexures P-7) would become inoperative *qua* the petitioner.

(SANJAY VASHISTH)
JUDGE

September 22, 2022

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No