

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

Sr. No. 118

CRM-M-45941-2022 (O&M)

Date of decision : 29.10.2022

Navanjit Singh

.....Petitioner(s)

VERSUS

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Sarju Puri, Advocate for the petitioner

AMAN CHAUDHARY, J.

The present petition under Section 482 Cr.P.C. has been filed for setting aside the order dated 12.3.2018, Annexure P-1, passed by learned Chief Judicial Magistrate, SBS Nagar whereby the petitioner was declared as proclaimed person in case FIR No. 61 dated 27.5.2017 registered under Sections 307, 323, 324, 148, 149 IPC and Sections 27, 30, 54, 49 of the Arms Act at Police Station Rahon, District SBS Nagar.

Learned counsel while referring to averments made in para 3 of the petition submits even though the petitioner was present in India at the time of registration of FIR in question on 27.5.2017, yet the fact remains that he neither participated in the alleged crime in any manner, nor had any knowledge about the aforesaid FIR and he left for Muscat (Oman) on 31.5.2017 to rejoin his job in the said country, whereafter, he returned only on 11.8.2022, reliance in this regard is on a copy of the passport, Annexure P-2. It is the case of the petitioner that he came to know about the FIR in question when he had been declared a proclaimed person vide order dated 12.3.2018. While the challan had been presented against the co-accused, way-back on 17.8.2017 and the trial against them is pending wherein, eye witnesses of the alleged did not support the prosecution case. His further

submission is that the proclamation was carried out at the address of the petitioner in India, wherein his name was also wrongly mentioned as Navdeep Singh @ Nami, whereas name of the petitioner is Navanjit Singh, reference in this regard is made to the non-bailable warrants, Annexure P-4. It is his submission that proper procedure as envisaged under Sections 41, 105 and 82 Cr. P.C. was not followed, inasmuch as he was residing abroad. To buttress his submission, he places reliance on the judgments of this Court in **Gurbir Singh Mundi vs. State of Punjab and another** CRM-M-49283-2021, decided on 16.12.2021, **Hardev Kaur vs. State of Punjab** 2018(2) Law Herald 1256; **Jasbir Kaur vs. State of Punjab and another**, CRM-M-25115-2022, decided on 2.6.2022 and CRM-M-32011-2018 titled as **Jaswant Singh vs. State of Punjab and another**, decided on 6.2.2020, order dated 24.09.2021 passed in SLP (Crl.) No.7072 of 2021 filed by the above petitioner-Jaswant Singh, judgment dated 20.10.2021 in Criminal Appeal no. 1233 of 2021 (SLP (Crl.) No.7072 of 2021), which was allowed.

It is his submission that the absence of the petitioner was neither intentional nor willful but for the reasons aforesaid. He further contends that the petitioner is ready and willing to surrender before the trial Court and apply for bail, for which he prays for grant of only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate to impose. Learned Counsel submits that in view of the impugned order having been passed against the petitioner, he is apprehending his arrest and prays that till the time he surrenders before the Trial Court, his arrest may be stayed, in light of the order dated 06.02.2020 passed by this Court in the case of **Jaswant Singh** (supra). He also places reliance on the judgments in the cases of **Surjit Singh vs. State of Punjab**, CRM-M-38277-2022, decided on 26.8.2022, **Naveen Rao vs. Central Bureau of Investigation (CBI) ACB, Chandigarh**, CRM-M-29461-2018, decided on 18.7.2018, **Dimple Kumar vs. State of Punjab** 2017(1) RCR (Crl.), 602 and '**Sonu Sharda vs. State of Punjab**' CRM-M-16648-2020 decided on 1.6.2020.

Notice of motion.

At the asking of the Court, Mr. Manipal Singh Atwal, DAG, Punjab accepts notice and states the learned trial Court has rightly passed the order as the petitioner did not appear before the Court and evaded the proceedings.

Heard the learned counsel for the parties.

In the case of **Jasbir Kaur** (supra), since the petitioner therein was a Non Indian Resident residing in Canada and proclamation proceedings had been initiated while she was not in India, as such, the order of proclamation was set aside.

Similarly, in the case of **Jaswant Singh** (supra), this Court in the interim order dated 10.9.2018, noticed the submission made by the counsel for the petitioner relying on the photocopy of the passport (Annexure A-1) that the petitioner was not in India at the time of registration of FIR on 29.10.2009, as well as, on the day, when he was declared proclaimed offender vide order dated 28.4.2014 and even on the date of passing of the above order, as he was in Italy, directed him to surrender before the trial Court, upon which interim bail was ordered to be granted to him. This Court vide order dated 6.2.2020 though declined the prayer for quashing of FIR made in the petition, but, with regard to the order declaring him a proclaimed offender, directed him to surrender before the trial Court and file an application for regular bail, however, till then he was ordered to be not arrested. He however challenged the said order inasmuch as this Court had declined his prayer for quashing of the FIR, wherein Hon'ble The Supreme Court of India vide an interim order dated 24.09.2021 passed in SLP (Crl.) No.7072 of 2021, ordered not to take coercive steps against him. Subsequently, vide judgment dated 20.10.2021, the Criminal Appeal no. 1233 of 2021 (SLP(Crl.) No.7072 of 2021) was allowed and FIR was quashed, in para 8 whereof it was mentioned that, he had surrendered on 27.10.2018, whereafter he was admitted to interim bail.

The very purpose of issuance of summons, warrants etc. is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

Adverting to the facts of the present case inasmuch as it was

because the petitioner had left the country for job in Muscut (Oman) on 31.5.2017, it is just after four days of the registration of the FIR in question, which appears to be justified explanation of his absence. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering his readiness and willingness to surrender and join the proceedings for which he is seeking only one opportunity and the absence of his not being willful and deliberate and no prejudice shall be caused to the complainant, rather his joining the proceedings would help in expediting the trial, which is in the interest of the parties thus, in order to meet the ends of justice and on finding judgments referred to above being applicable to the instant case, the present deserves to be allowed.

Accordingly, the present petition is hereby allowed. The impugned order dated 12.3.2018, Annexure P-1, is set aside, subject to payment of costs of Rs.10,000/- to be deposited with Punjab and Haryana High Court Bar Association Advocates' Welfare Fund. However, in case the petitioner surrenders before the trial Court on or before 12.11.2022 and files an application for regular bail, the same be decided on the same day. Till then no coercive steps be taken against him. He shall also surrender his passport and will not leave the country without prior permission of the Court or the trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

29.10.2022
gsv

(AMAN CHAUDHARY)
JUDGE

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