

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

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CRM-M-44017-2019 (O&M)

Date of decision: 31.03.2022

SATPAL SINGH

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Aditya Dassaur, Advocate for
Mr. Ferry Sofat, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition raises a challenge to the order dated 28.08.2017 (Annexure P-2) passed by Judicial Magistrate First Class, Ludhiana in FIR No.74 dated 11.06.2014 under Section 379 IPC and Section 21 of the Mining Act registered at Police Station Jamalpur, Ludhiana, vide which the petitioner had been declared a proclaimed person.

Learned counsel appearing for the petitioner submits that the petitioner was granted the concession of anticipatory bail vide order dated 24.06.2014 by the Additional Sessions Judge, Ludhiana. Thereafter, the petitioner had been appearing on all dates of hearing except on 28.07.2016, when the petitioner could not appear due to some personal difficulty. Resultantly, his non-bailable warrants was issued for 31.08.2016. However, in the meanwhile the petitioner was sent to judicial custody on 01.08.2016 in FIR No.6 dated 27.01.2013 registered under Section 304-A and 279 IPC at Police Station Bhikhi District Mansa, wherein the petitioner was convicted and sentence imprisonment

for 01 year. The said judgment of conviction and sentence was upheld by the Court of Sessions as well as the High Court.

Resultantly, non-bailable warrants of the petitioner were not served on various dates and remain un-executed with the report evading service. Consequently, the proclamation was issued against the petitioner despite the fact that all this while the petitioner remained in custody and confined in Central jail Mansa. He further submits that pursuant to the order dated 17.10.2019, the petitioner has joined proceedings and was released on interim bail in compliance of order passed by this Court.

Mr. Karanbir Singh, AAG Punjab does not controvert the said averment and submissions advanced by the petitioner.

In view of the un-controverted position of fact, I find the submission advanced by the petitioner is meritorious and absence of the petitioner to appear in the proceedings on account of having been confined in criminal proceedings is a circumstance that had not been taken into consideration by the Court. It is evident that the said aspect was also not brought to the notice of the Court and evidently an erroneous report had been made that the petitioner was evading service. In view of the aforesaid undisputed and un-controverted position of facts, it cannot be said that non-appearance of the petitioner was either deliberate or intentional. Apparently, the absence was on account of circumstances not within the control of the petitioner. The report on the summons is thus not reflective of the correct and complete particulars pertaining to the petitioner.

The present petition is accordingly allowed and the order dated 28.08.2017 (Annexure P-2) passed by Judicial Magistrate First Class, Ludhiana in FIR No.74 dated 11.06.2014 under Section 379 IPC and Section 21 of the Mining Act registered at Police Station Jamalpur, Ludhiana is quashed. The petitioner

shall continue to appear in the proceedings till their final culmination.

(VINOD S. BHARDWAJ)
JUDGE

March 31, 2022

S.Sharma(syr)

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