

CRM-M-54150-2022

Date of decision: 22.11.2022

ASHA DEVI

...Petitioner

V/s

STATE OF HARYANA AND ANOTHER

...Respondents

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Ram Pal Verma, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG Haryana.

DEEPAK MANCHANDA J.

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure for setting aside the order dated 27.10.2022 (Annexure P-3) passed by the trial Court vide which petitioner has been declared proclaimed person in case FIR No. 280 dated 23.06.2017 under Sections 406 and 420 of the Indian Penal Code registered at Police Station Sector-40, Gurugram.

Learned counsel for the petitioner contends that the petitioner was granted the concession of anticipatory bail vide order dated 14.03.2018 and the petitioner furnished her bail bonds on 24.05.2018 and thereafter, she continued to attend the trial proceedings regularly. However, on 22.03.2022, she failed to appear before the trial Court due to some personal family problem, when her bail was cancelled and warrants of her arrest were issued. Thereafter vide order dated 15.09.2022, proclamation was issued against the petitioner and ultimately vide order dated 27.10.2022, she was declared proclaimed offender. However, her absence was unintentional and bona fide. Reasons for the same have been mentioned in para No. 4 of the present petition. The absence of the petitioner resulted into passing of the impugned order dated 27.10.2022 (Annexure P-3), whereby the learned trial Court proceeded to declare the petitioner as a proclaimed person. He further submits that the petitioner is ready and willing to

join the trial proceedings.

Notice of motion.

At this stage, Mr. Bhupender Singh, DAG Haryana, who is present in the Court accepts notice on the asking of the Court and submits that the impugned order has been passed on the sole ground of absence of the petitioner, however, it is not disputed by him that the petitioner was on bail since 14.03.2018 and had been appearing before the trial Court.

A perusal of the order dated 27.10.2022(Annexure P-3) reflects that the trial Court proceeded to declare the petitioner as proclaimed person for the solitary reason of absence of the petitioner. The said order reflects that even necessary directions for registration of FIR against the petitioner under Section 174-A of the Indian Penal Code were also issued within 7 days of the receipt of the order.

Vide order dated 21.11.2022, learned State counsel sought time to verify the status of FIR registered under Section 174-A of the Indian Penal Code but no such information was provided.

The objective of Section 82 of the Code is to secure the presence of the accused. Once the accused is willing to appear and join trial proceedings, the objective has been achieved.

Consequently, the instant petition stands allowed and impugned order dated 27.10.2022 is set aside. However, arrest of the petitioner is stayed for a period of 2 weeks enabling her to put in appearance before the trial Court to face trial. She is directed to surrender before the trial Court on or before 06.12.2022 and on him doing so, she would be admitted to bail subject to her furnishing personal bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is made clear that if the petitioner does not present herself before the trial Court within the stipulated time, interim protection granted to her will be deemed to have been automatically vacated.

(DEEPAK MANCHANDA)
JUDGE

22.11.2022

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes
Yes/No