

...Petitioner

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Ravinder Singh Bains, Sr. Advocate with
Mr. Saurabh Bedi, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

DEEPAK MANCHANDA J.

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure for setting aside/quashing of the order dated 07.12.2020 (Annexure P-4) passed by the Sub Divisional Judicial Magistrate, Kapurthala vide which petitioner has been declared as proclaimed person in case bearing FIR No. 53 dated 10.03.2020 registered under Sections 307, 353, 186, 323, 324, 188, 148 and 149 of the Indian Penal Code and Sections 25 and 27 of Arms Act at Police Station Sultanpur Lodhi, District Kapurthala.

Learned counsel for the petitioner contends that initially petitioner was not named in the FIR and his name was included in the aforesaid FIR only on the basis of supplementary statement of ASI Kuldip Singh and he was not aware about the registration of FIR. It is only when he came to know from Sarpanch of his village in November 2020 that police had visited the village and were enquiring about him. Thus he was unable to appear in the Court and was declared proclaimed person by the court of SDJM, Sultanpur Lodhi vide order dated 07.12.2020. It is further contended that non-appearance of the petitioner was completely unintentional and was not deliberate, rather it was due to the reason that the petitioner was not aware about the FIR.

He further submits that the petitioner is ready and willing to join the trial proceedings.

Notice of motion.

At this stage, Mr. G.S. Sidhu, Assistant AG Punjab, who is present in the Court accepts notice on the asking of the Court and submits that the order proclamation proceedings have been issued against the petitioner only on the sole ground of absence of the petitioner.

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 07.12.2020 (Annexure P-4) is set aside. However, arrest of the petitioner is stayed for a period of 2 weeks enabling him to put in appearance before the trial Court to face trial. He is directed to surrender before the trial Court on or before 06.12.2022 and on his doing so, he would be admitted to bail subject to him 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 himself before the trial Court within the stipulated time, any interim protection granted to him will be deemed to have been automatically vacated.

(DEEPAK MANCHANDA)
JUDGE

21.11.2022

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes
Yes/No