

...Petitioner

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Munish Bhardwaj, 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 13.12.2021 (Annexure P-10) passed by the Judicial Magistrate Ist Class, Kharar and further seeking quashing of the order dated 01.11.2022 vide which proclamation proceedings were started against the petitioner in case FIR No. 253 dated 06.11.2019 registered under Sections 61 of the Punjab Excise Act at Police Station Kharar, District SAS Nagar.

Learned counsel for the petitioner contends petitioner was granted the concession of interim protection in the aforesaid FIR vide order dated 16.12.2019 and after joining the investigation proceedings, his order of interim bail was confirmed vide order dated 22.01.2020. When challan was present in the Court on 05.11.2020, no notice was issued to the petitioner. It is further contended that due to spread of Corona Virus (Covid-19), Court working was restricted and petitioner did not appear on account of non-service of notice. Therefore on 08.09.2021 bailable warrants were issued against the petitioner for 25.10.2021, but the same were not received by the petitioner. On 13.12.2021 learned trial Court directed to issue non-bailable warrants against the petitioner for 18.01.2022. Therefore, due to fresh outbreak of Covid-19, petitioner did not receive any notice or warrants of

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foresaid dates and thus could not appear before the learned trial

Court. At last, petitioner received notice for appearance on 01.11.2022 and thus he came to know from his counsel that his bail has already been cancelled and non-bailable warrants have been issued against him. On 01.11.2022, due to strike of Advocates, case stands adjourned to 13.12.2022, however, on that date the trial Court may initiate proceedings to declare the petitioner as proclaimed offender. It is further contended that petitioner has never been called upon by the police officials regarding proclamation proceedings.

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 13.12.2022 (Annexure P-10) 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 him 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, 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