

Amul Kapil Khurana vs. State of Haryana

Present: Mr.Sanjeev Kumar Aggarwal, Advocate
for the petitioner

Ms. Dimple Jain, AAG, Haryana

Through the present petition under Section 482 of Cr.P.C, the petitioner is seeking quashing of order dated 15.03.2021 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Rohtak, whereby the petitioner was declared Proclaimed Person in FIR No. 447 dated 05.12.2018 under Sections 409 and 420 IPC registered at Police Station Old Sabzi Mandi, District Rohtak, to register FIR under Section 174A IPC.

Learned counsel for the petitioner, inter alia, submits that summons issued in terms of Section 82 Cr.P.C. were not served upon the correct address of the petitioner. The petitioner is going to take appropriate steps in terms of anticipatory bail or otherwise qua proceedings arising out of FIR No. 447 dated 5.12.2018 and undertakes to pay costs of Rs, 25,000/- for his lapse.

Notice of motion.

Ms. Dimple Jain, AAG, Haryana accepts notice on behalf of respondent-State and fairly does not dispute the facts but prays for imposition of costs.

Intent of arrest and reason of denial of bail is to secure the appearance of the accused at the time of trial. A person who seeks to be liberated must take judgment and serve sentence in the event of his conviction. The nature of the crime charged, severity of punishment prescribed, prime facie available evidences, history & background of the accused may indicate that any amount of bond and surety is not going to secure presence of accused, at the time of conviction.

The object of arrest is neither punitive nor preventive. Detention or arrest not only deprives a person from his fundamental right of personal liberty

guaranteed by Article 21 but also freedom guaranteed by Article 19(1) of our Constitution. Life of every human being is most precious gift of God and everyone has very limited span of life which cannot be spoiled on account of incompetence, personal grudge, vengeance of someone; or brutal, illegal, unethical action of the State machinery. Except habitual offender, commoners living simple life after arrest lose self-respect and confidence within himself as well State. It has become very common to put criminal law in motion even though dispute involved is purely contractual or civil in nature. Many times arrest entails deprivation of source of income of entire family besides forever stigma in a closely knit society like ours. There is neither mechanism to compensate a man who is later on found innocent nor acquittal can return valuable time, energy, status, future of family members especially children which is lost on account of incarceration of bread earner of the family. Imprisonment before conviction is a sort of punishment especially when rate of conviction in our country is abysmally low.

Keeping in mind:

- (i) The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure his presence. The petitioner has come forward to face trial;
- (ii) The Petitioner for wasting valuable time and energy of courts as well prosecution is willing to pay costs of Rs.25,000/-
- (iii) The procedure as prescribed under Section 82 Cr.P.C has not been followed.
- (iv) The Petitioner is not involved in any other offence;
- (v) The petitioner is resident of Uttrakhand and a dispute between the petitioner and his wife is going on and in these circumstances, the petitioner did not come to know about the pending proceedings.

this court is of the considered opinion that P.O. and consequent proceedings needs to be kept in abeyance. Accordingly, order dated 15.03.2021

(Annexure P-3) passed by learned Judicial Magistrate Ist Class, Rohtak, whereby the petitioner was declared Proclaimed Person is stayed. The petitioner shall pay costs of Rs. 25,000/-, to be paid to District Legal Services Authority, Rohtak.

Adjourned to 5.1.2023.

(JAGMOHAN BANSAL)
JUDGE

23.11.2022
paramjit

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