

...Petitioner

STATE OF PUNJAB

...Respondent

Present: Mr. J.S. Dadwal, 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 the order dated 11.04.2022 (Annexure P-2) passed by learned Additional Sessions Judge, Kapurthala in case bearing FIR No. 119 dated 27.04.2017 under Sections 379-B and 34 of the Indian Penal Code registered at Police Station City Kapurthala, District Kapurthala, whereby the petitioner was declared proclaimed offender due to non-appearance on fixed date.

Learned counsel for the petitioner contends petitioner was granted the concession of regular bail on 16.03.2018 in the aforesaid case by this Hon'ble Court. Thereafter, the petitioner was appearing on each and every date fixed in the trial Court. But on 15.11.2021, he could not appear before the trial Court due to some unavoidable circumstances in the family. Now the petitioner has come to know from his counsel that he has been declared proclaimed offender in the case vide order dated 11.04.2022. But no notice was served upon the petitioner. 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.

A perusal of the order dated 11.04.2022 (Annexure P-2) reflects that the trial Court proceeded to pass the extreme order of declaring the petitioner proclaimed offender, for the solitary reason 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 11.04.2022 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 05.12.2022 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, 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