

115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55001-2022

Date of Decision: 29.11.2022

KULWANT RAJ@SUNNY

..... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Ankit Gupta, Advocate for the petitioner.

Mr. Amish Sharma, AAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

Through instant petition under Section 482 of Code of Criminal Procedure, 1973, the petitioner is seeking quashing of order dated 06.08.2022 (Annexure P-2) passed by Chief Judicial Magistrate, Jalandhar whereby the petitioner has been declared as a proclaimed person in case FIR No.78 dated 23.07.2019 registered under Sections 379 and 411 IPC at Police Station P.S. Bhagro Camp, District Jalandhar (Annexure P1).

Learned counsel for the petitioner inter alia submits that the petitioner was granted regular bail vide order dated 03.08.2019 passed by learned JMIC, Jalandhar. The petitioner failed to appear before trial Court, because petitioner got job opportunity out of country i.e. Portugal. The trial Court cancelled bail of the petitioner on 13.12.2021 and thereafter, vide order dated 06.08.2022 declared proclaimed offender. The petitioner is ready and willing to face the trial and further undertakes to pay costs of Rs.25,000/-.

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 and undertakes to appear before trial court on each and every date, thus ,his presence would meet ends of justice;

- 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 Petitioner is ready to furnish bond/surety to the satisfaction of the trial court;
- iv) The Petitioner is not involved in any other offence;
- v) The petitioner was initially granted regular bail by Trial Court;
- vi) Trial is pending since 2019 and petitioner is ready to face trial, thus, no prejudice is going to cause to prosecution or complainant;

this court is of the considered opinion that present petition needs to be allowed, and accordingly, petition is allowed. The petitioner is directed to appear before Trial Court on or before 16.12.2022 and furnish fresh bail bond/surety bond to its satisfaction. The petitioner, as agreed shall pay costs of Rs.25,000/- to the District Legal Services Authorities, Jalandhar.

Disposed of.

(JAGMOHAN BANSAL)
JUDGE

29.11.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>

