

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-53677-2019 (O&M)

Date of decision: 16.11.2022

Atinderpal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Mansur Ali, Advocate
for the petitioner.

Mr. Navneet Singh, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

On 16.12.2019, the following order was passed:

“Prayer in this petition is for setting-aside the orders dated 25.05.2018 and 15.06.2018 (Annexures P4 and P5) passed by the trial Court arising out of an FIR No.0109 dated 04.10.2017 registered under Sections 323, 341, 506, 148, 149, 120-B IPC (Sections 325 and 307 IPC added later) at Police Station Sadar Rupnagar, District Rupnagar.

Counsel for the petitioner has referred to the order dated 27.08.2019 passed by the trial Court wherein it is noticed that process serving Constable affixed the proclamation on the wall of the house of the accused/petitioner on 10.08.2018 and noticing the fact that the mandatory period of 30 days has not lapsed, the case was adjourned to 11.09.2018. It is further submitted that passing of this order is against the procedure laid down under Section 82 of the Cr.P.C. wherein it is clearly provided that there should be a 30 days clear time from the date of publication of the notice. Counsel for the petitioner has relied upon the judgment “*Ashok Kumar vs State of Haryana and another*”, **2013(4) RCR (Criminal) 550**. Counsel for the petitioner has also argued that it will be a debatable issue to be decided

during the course of trial as to whether Section 307 IPC is made out in the case or not as per the enquiry conducted later on.

Notice of motion for 31.03.2020.

In the meantime, operation of the impugned orders shall remain stayed.

In the meantime, the petitioner is directed to surrender before the trial Court and the trial Court will release the petitioner on interim bail subject to his furnishing fresh bail/surety bonds.

In case the Investigating Officer requires the presence of the petitioner for the purpose of submitting the supplementary challan, then it will be open for him to issue a notice in writing to the petitioner, directing him to join the investigation.”

Counsel for the petitioner has placed on record the order dated 14.01.2020 to show that the petitioner has already appeared before the trial Court and on furnishing bail/surety bonds, he has been released on interim bail. It is further submitted that the petitioner is regularly appearing before the trial Court.

Counsel for the State has not disputed the factual position.

In view of the above, the present petition is allowed and the order dated 16.12.2019 is made absolute. The the impugned orders dated 25.05.2018 (Anexure P-4), 15.06.2018 (Annexure P-5) as well as impugned order dated 11.09.2018 (Annexure P-6), passed by the trial Court, are hereby quashed.

16.11.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No