

233/2

2023 : PHHC : 122194
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6718-2022

Date of Decision: 15.09.2023

AJAY DHAWAN

... PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Nikhil Singh, Advocate for
Ms. Alka Chatrath, Advocate for the petitioner.

Mr. Hittan Nehra, Addl. A.G. Punjab.

Mr. Ritesh Pandey, Advocate for respondent No.2.

* * *

VIVEK PURI, J. (ORAL)

1. Petitioner is seeking to quash the order dated 03.01.2022 passed by learned Judicial Magistrate Ist Class, Gurdaspur vide which he has been declared as Proclaimed Offender.

2. On 18.02.2022, following order was passed by the Co-ordinate

Bench:

“Heard through video conferencing.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking quashing of impugned order dated 03.01.2022 passed by learned Judicial Magistrate First Class, Gurdaspur, Annexure P-5, in FIR No.291 dated 08.11.2013 registered for offences under Sections 498-A and 406 of the Indian Penal Code, 1860, at Police Station Dina Nagar, District Gurdaspur, Annexure P1, whereby the petitioner has been declared as a proclaimed offender.

Counsel submits that the FIR is an outcome of a matrimonial dispute and a petition seeking quashing of the FIR filed by the husband of the complainant and other relatives, is pending before this court for 09.03.2022. He submits that the petitioner is a distant relation of the husband of the complainant, who has been declared as a proclaimed offender vide impugned order without adhering to the mandatory provisions of Section 82 of the Code. He submits that the petitioner is ready to surrender before the Trial Court within any period as granted by this Court and pay a cost of Rs.35,000/-, out of which, he has offered to deposit Rs.10,000/- with the Poor Patient

Welfare Fund of the Post Graduate Institute of Medical Education and Research (PGIMER), Sector 12, Chandigarh and pay the balance to the complainant.

Notice of motion.

On asking of the Court, Mr. Dhruv Dayal, Senior Deputy Advocate General, Punjab accepts notice on behalf of respondent No.1- State.

Respondent No.2 be served for 09.03.2022.

In case, the petitioner surrenders before the Trial Court on or before 28.02.2022, joins the proceedings and moves an application seeking grant of bail, the Trial Court shall release him on interim bail on his furnishing of adequate bail/surety bonds to its satisfaction. This will be a subject to the condition that he will deposit a sum of Rs.10,000/- with the Poor Patient Welfare Fund of the Post Graduate Institute of Medical Education and Research (PGIMER), Sector-12, Chandigarh, the receipt of which, he will furnish before the Trial Court and pay Rs.25,000/- to the complainant. This will be a condition precedent to the release of the petitioner on interim bail.

To be heard with CRM-M-48156-2021. ”

3. Learned counsel for the petitioner contends that in pursuance of the interim directions, the petitioner has surrendered before the learned trial Court and on the application moved on his behalf, he has been released on interim bail. Furthermore, the amount of Rs.25,000/- has also been paid to the complainant. Besides, a sum of Rs.10,000/- has also been deposited in the Poor Patient Welfare Fund of the Post Graduate Institute of Medical Education and Research (PGIMER), Sector 12, Chandigarh and the receipt thereof has been submitted in the learned trial Court.

4. Learned counsel for the parties are ad idem that the purpose of passing the impugned order for securing the presence of the petitioner has been secured and the petition may be disposed of by passing appropriate order to ensure the presence of the petitioner during the course of trial.

5. In these set of circumstances, the petition is disposed of with a direction that the petitioner who has already surrendered in the learned trial Court shall move an application for regular bail within a period of 4 weeks and the same be disposed of in accordance with law by the learned trial

Court.

6. Meanwhile, the arrest of the petitioner be not effected till the disposal of the bail application and for a period of 15 days thereafter, in the event the bail application is dismissed. In the event, the petitioner moves appropriate application for bail within the aforesaid prescribed time period, the impugned order be not given effect.

15.09.2023

Janki

(VIVEK PURI)
JUDGE

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