

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-10696-2023

Date of Decision: 2.3.2023

Malkiat Singh

....Petitioner

VERSUS

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. B.S.Bhalla, Advocate, for the petitioner.

KARAMJIT SINGH, J. (Oral)

Present petition has been filed by the petitioner seeking quashing of order dated 19.12.2022 (Annexure P-1) wherein the petitioner has been declared as proclaimed offender in criminal case having FIR No.195 dated 19.9.2021 registered under Sections 379 IPC (Section 411 IPC added later on) and Section 21(3) of Mines and Minerals (Regulations of Development Act) at Police Station Dharamkot, District Moga, by the Court of Judicial Magistrate, 1st Class, Moga on account of absence of the petitioner.

Counsel for the petitioner *inter alia* contends that initially, the petitioner was granted bail by the Court concerned on the ground that he was having valid licence/permit to do mining of sand from the bed of Sutlej river. He further submits that thereafter the petitioner was regularly appearing before the Court concerned but due to some unavoidable circumstances, he failed to appear in the trial Court on 21.7.2022 and thereafter, he was declared proclaimed person vide impugned order dated 19.12.2022. He further submits that the impugned order has not been passed in conformity with the provisions of Section 82 of Cr.P.C. as clear 30 days

time was not given to the petitioner for his appearance in the Court concerned with effect from the date of publication of the proclamation. He further submits that the petitioner is ready to join the proceedings in the trial Court.

Notice of motion.

Mr. C.L.Pawar, Addl. AG, Punjab accepts notice on behalf of the State and on instructions from ASI Davinderjit Singh apprised the Court that the petitioner jumped bail and resultantly, the impugned order was passed by the learned trial Court as per settled procedure of law. He further apprised the Court that now the police has prepared cancellation report which has been approved by the SSP concerned and is going to be filed in the Court concerned.

Apparently, it appears that the impugned order is not passed by the learned trial Court as per procedure provided in Section 82 of Cr.P.C. Further, as has been informed by the State counsel, the police has already prepared the cancellation report in this case.

Resultantly, the present petition is hereby allowed and the impugned order is set aside subject to the condition that the petitioner should appear in the trial Court within next 20 days and on his doing so, he be released on regular bail by the said Court to its own satisfaction and subject to costs of ₹ 10,000/- to be deposited by the petitioner with District Legal Services Authority, Moga.

(KARAMJIT SINGH)
JUDGE

March 2, 2023
Paritosh Kumar

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