

(120)

2023:PHHC:074347

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

CRM-M-12716 of 2023

Date of Decision: May 22, 2023

Gurjinder Singh @ Ginda

...Petitioner

Versus

The State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Lakhwinder Singh Lakhanpal, Advocate
for the petitioner.

Mr. R.S. Khaira, DAG, Punjab.

DEEPAK GUPTA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C is to quash impugned order dated 14.07.2014 (Annexure P.1) passed by learned Judicial Magistrate Ist Class, Phillaur in case arising out of FIR No.101 dated 28.09.2012 registered at Police Station Bilga, District Jalandhar City under Section 18/61/85 of Narcotic Drugs and Psychotropic Substance Act, 1985 (Annexure P.2).

2. According to petitioner, he was falsely implicated in the case on the allegations of possessing 15 grams of opium. Challan was filed and charge was framed against him on 20.04.2013. However, he could not appear on the later dates and ultimately, proceedings under Section 82 Cr.P.C were initiated.

3. Learned counsel for the petitioner contends that petitioner is presently residing in Woolwich London, United Kingdom and, therefore, the proclamation issued against the petitioner is against the provisions of Section 82 Cr.P.C.

4. Notice of motion.

5. Mr. R.S. Khaira, DAG, Punjab, accepts notice on behalf of the respondent – State.

6. As is evident from the petition itself, petitioner had duly appeared before the Court concerned and even the charge against him had been framed on 20.04.2013. He absented without any intimation to the Court on 09.07.2013 and then his presence was sought to be procured by issuing notice, then bailable warrants and then warrants of arrest and ultimately the proclamation. At the same time, it is revealed that before issuing the proclamation under Section 82 Cr.P.C, learned Court did not record its satisfaction to the effect that petitioner was concealing himself or had absconded. So much so, even after effecting of the proclamation, it was not declared that petitioner had absconded. Not only this, the order dated 14.07.2014 (Annexure P.1) reveal that since the period of 30 days had elapsed, so proclamation proceedings stood completed, petitioner was not declared as proclaimed offender. Thus, what is evident is that neither the bail of the petitioner was cancelled at any point of time nor he was declared proclaimed offender in accordance with law after making compliance of Section 82 Cr.P.c.

7. However, no doubt that there has been lapse on the part of the Court for not making compliance of the provisions of Section 82 Cr.P.C., but at the same time, the conduct of the petitioner cannot be ignored having regard to the fact that once he was allowed bail and even the charge had been framed against him, he absented from trial without any intimation to the Court and shifted to the foreign country.

8. Having regard to the afore-said circumstances, petitioner is hereby directed to surrender before the trial court within a period of two months from today, i.e. on or before 24.07.2023. On his such appearance, the trial Court shall revive the proceedings and on the application for bail

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being moved by the petitioner, shall consider the same on the same date.

However, this order is subject to the costs of ₹1 lac which is to be deposited by the petitioner in the District Legal Services Authority, Jalandhar. If till the surrender of the petitioner, he is sought to be arrested on account of proclamation proceedings against him, he shall be released on bail, to the satisfaction of the Arresting Officer. On failure of the petitioner to comply any of the conditions of this order, petition shall be deemed to have been dismissed.

9.

Disposed of.

May 22, 2023

(DEEPAK GUPTA)

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JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No