

113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13323-2023 (O&M)

Date of decision: 11.05.2023

SALWANT SINGH

...Petitioner

V/s

STATE OF PUNJAB AND ANOTHER

...Respondents

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Narender S. Lucky, Advocate
for the petitioner.

DEEPAK MANCHANDA J.

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure seeking quashing of impugned order dated 18.07.2022 (Annexure P-3) passed by Additional Chief Judicial Magistrate, Tarn Taran in case titled as "*Tarn Taran Bank Vs. Salwant Singh*" bearing No. NACT-935-2018 filed on 30.10.2018, vide which bail bonds of the petitioner have been cancelled and impugned order dated 10.01.2023 (Annexure P-5), vide which the petitioner has been declared as proclaimed offender.

Learned counsel for the petitioner, after arguing for some time, confines himself to the limited prayer for quashing the order dated 10.01.2023 (Annexure P-5) whereby the petitioner was declared as proclaimed offender.

Learned counsel for the petitioner contends that the petitioner was released on bail at the very beginning of the case and thereafter, he continued to attend the trial proceedings regularly. However, on 18.07.2022, he failed to appear before the trial Court as he was unwell and he asked his counsel to file an exemption application on his behalf, however, the same could not be filed, which resulted into cancellation of his bail bonds and further proclamation under Section 82 of Cr.P.C. was issued against him for which mandatory period

of 30 days was not provided to him, as the said proclamation was issued on

26.10.2022 and the same was awaited for 16.12.2022 and finally the petitioner was declared as proclaimed offender vide order dated 10.01.2023 and in view of the same, mandatory period of 30 days was not provided to the petitioner. Learned counsel further submits that petitioner is ready and willing to join the trial proceedings.

Notice of motion.

At this stage, Mr. P.S. Grewal, DAG Punjab, who is present in the Court accepts notice on the asking of the Court and submits that the impugned order dated 10.01.2023 has been passed on the sole ground of absence of the petitioner, however, it is not disputed by him that the petitioner was on bail and had been appearing before the trial Court.

A perusal of the order dated 10.01.2023 (Annexure P-5) reflects that the trial Court proceeded to declare the petitioner as proclaimed person for the solitary reason of absence of the petitioner.

The objective of Section 82 of the Code is to secure the presence of the accused. Once the accused is willing to appear and join trial proceedings, the objective has been achieved.

Consequently, the instant petition stands partly allowed and impugned order dated 10.01.2023 (Annexure P-5) is set aside. However, arrest of the petitioner is stayed for a period of two weeks only enabling him to put in appearance before the trial Court to face trial. Petitioner is directed to surrender before the trial Court on or before 25.05.2023 and on his doing so, he shall be admitted to bail subject to his furnishing personal bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is made clear that if the petitioner does not present himself before the trial Court within the stipulated time, interim protection granted to her will be deemed to have been automatically vacated.

11.05.2023
Ajay Goswami

(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No