

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-12225-2019
Date of decision: 15.02.2023

RAHAT GHARU AND ANOTHER

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. R. S. Dhaliwal, Advocate
for the petitioners.

Mr. Kamalpreet Bawa, AAG, Punjab.

AMAN CHAUDHARY. J.

Present petition has been filed for setting aside the order dated 30.01.2019 passed by the Judicial Magistrate 1st Class, Jalandhar whereby the petitioners have been declared as proclaimed offenders.

Learned counsel for the petitioners submits that the petitioners were implicated as accused on the basis of disclosure statement of co-accused Prem Lal, who was arrested on 24.09.2016. However, on an application moved by them regarding their innocence, which was inquired by the then ADCP, Jalandhar, ultimately they were found to be innocent. Thereafter, an application for cancellation of proclamation proceedings was filed by SHO, Police Station Cantt, Jalandhar before the learned trial Court on 07.12.2018, despite which, they were declared proclaimed offenders vide order dated 30.01.2019. However, on the basis of the challan, the proceedings before the trial Court commenced but the petitioners were not aware of the same. He submits that the petitioners are ready

and willing to join the proceedings. In support of his arguments, learned counsel relies upon the judgments of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of “Surjit Singh Vs. State of Punjab”, CRM-M-39000-2022, titled as “Raghav vs. State of Punjab”, decided on 9.9.2022 and CRM-M-36490-2022, “Major Singh vs. State of Punjab”, decided on 15.9.2022.

Learned State counsel unable to controvert the submissions made by learned counsel for the petitioners. However, he submits that the petitioners have been rightly declared proclaimed offenders by the trial Court.

Heard.

The very purpose of issuance of non-bailable warrants, is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

Indubitably, the petitioners were nominated in the present case on the basis of the disclosure statement of the co-accused. When the trial was going on against the other co-accused, the PO proceedings were initiated against the petitioners, who had not appeared on account of they having been found innocent on an enquiry made by ADCP, on account of which, even the concerned SHO filed application for the cancellation of the said proceedings, but they were still declared proclaimed offenders.

The explanation furnished by the petitioners for their non-appearance before the trial Court, seems to be justified and plausible. Therefore, in view of the facts and circumstances of this case and the judgments referred to above, the impugned order dated 30.01.2019 (Annexure P-1) is set aside. The petitioners are directed to appear before the trial Court on or before 25.04.2023 and file their respective bail applications, which shall be decided on the same day.

Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

February 15, 2023

Mehak

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>