

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-24621-2023 (O&M)

Date of decision: 22.05.2023

Sukhwinder Singh @ Sukha

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. R.K. Arya, Advocate for the petitioner

Mr. M.S. Nagra, AAG Punjab

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C., for quashing of the order dated 14.08.2018, Annexure P-5 passed by the Judicial Magistrate 1st Class, Nakodar, District Jalandhar whereby the petitioner has been declared proclaimed offender/person in cross version FIR No.334 dated 07.11.2008 registered under Sections 323, 324, 341, 427, 148, 149 IPC at Police Station Nakodar, District Jalandhar.

2. Learned counsel contends that it is a case of version and cross-version and the petitioner was granted regular bail vide order dated 20.04.2015. The challan was presented in the year 2009 and a supplementary challan on 29.04.2017. The co-accused have been acquitted by the trial Court vide judgment dated 23.03.2012 (Annexure P-2). He was declared proclaimed person without following the mandate of Section 82 (1) Cr.P.C., as 30 days notice period has not been granted and the Court vide order dated 12.07.2018, adjourned the case for completion of the said period as the same had not yet elapsed. To buttress his submission, he places reliance on the judgment in the cases of **Shokat Ali vs.**

State of Haryana and Another, 2020 (2) R.C.R. (Criminal) 339, **Ashok Kumar vs. State of Haryana and another** 2013(4) RCR (Criminal) 550; **Dilbagh Singh @ Sonu vs. State of Punjab**, 2015 (8) R.C.R. (Criminal) 166 as also on an order dated 09.04.2021, of this Court passed in CRM-M-15728-2021, titled as **Davinder Singh Chawla and another vs. State of Haryana and another**.

3. Notice of motion.

4. Mr. M.S. Nagra, AAG Punjab opposes the petition by submitting that the impugned order is legal and valid and has been rightly passed by the learned trial Court on account of non-appearance of the petitioner.

5. Heard.

6. 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.

7. Adverting to the facts of the present case, the proclamation was issued against the petitioner vide order dated 08.06.2018 and was duly served on 08.07.2018, but the next date of trial was fixed for 12.07.2018. Thereafter, on 12.07.2018, only after recording the statement of serving constable, the case was simply adjourned by the trial Court for 14.08.2018 for appearance, which is in violation of the provisions of Section 82 Cr.P.C. as per publication of the proclamation was less than prescribed period of 30 days, which would not be made up by adjourning the date of hearing in the case. However, it is incumbent upon him to join the proceedings before the trial Court for the culmination of the same. Considering the fact that the absence of the petitioner being not wilful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to

any of the parties, rather his joining the proceedings would help expediting the trial. Thus, in order to make the ends of justice meet and finding judgments referred to above being applicable to the instant case, the present petition deserves to be allowed.

8. In view of the facts and circumstances of this case and the judgments referred to above, the impugned order dated 14.08.2018, Annexure P-5 is set aside subject to the petitioner surrendering before the trial Court on or before 02.06.2023 and deposit Rs.25,000/- with the Poor Patients Welfare Fund, PGIMER, Chandigarh and furnish his fresh bail/surety bonds. On so doing, the trial Court shall release him on bail by imposing surety to its satisfaction. He is also directed to furnish an undertaking by way of his affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall also surrender his passport and will not leave the country without prior permission of the Court or the trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

9. 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

May 22, 2023
M.Kamra

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