

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

257

CRM-M-13609-2019
Date of decision : 31.08.2023

Gurjinder Singh @ Gurinder Singh @ Gurwinder Singh Alias Jindu
...Petitioner

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Parminder Singh Sekhon, Advocate for the petitioner.

Ms. Himani Arora, AAG, Punjab.

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 15.11.2018, Annexure P-4 passed by Ld. Judicial Magistrate Ist Class, Moga, whereby the petitioner has been declared a proclaimed offender in case FIR No.30 dated 03.05.2014 registered under Section 380, 454, 447, 427, 511, 148 and 149 IPC at Police Station Fatehgarh Panjtoor, District Moga.

2. Learned counsel for the petitioner contends that in aforesaid FIR, the petitioner alongwith other co-accused were granted regular bail by the learned trial Court in June 2014. Thereafter, the petitioner continued to appear before the trial Court except on 15.11.2018, as on the same very day, he was arrested in another FIR No.156 dated 15.11.2018 registered under Section 22 of the NDPS Act, 1961 at Police Station Kot Isse Khan, wherein he was granted regular bail on 25.01.2019 (Annexure P-3). His bail order was cancelled vide order dated 15.11.2018 and subsequently, declared proclaimed offender. The absence of the petitioner was neither wilful nor deliberate but was on account of the reason aforesaid. Further

that he is ready and willing to join the proceedings for which he prays for grant of one opportunity to surrender before the learned trial Court, even if the same is subject to costs. Reliance is placed on the orders 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 09.09.2022 and CRM-M-36490-2022, titled as **Major Singh vs. State of Punjab**, decided on 15.09.2022.

3. Ms. Himani Arora, AAG, Haryana, opposes the same by submitting that the impugned orders are legal and valid and have been rightly passed by the trial Court on account of non-appearance of the petitioner.

4. Heard.

5. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule of law, as also to ensure finalization of the proceedings.

6. Adverting to the facts of the present case, the reasons for non-appearance of the petitioner that led to the passing of the impugned order, appear to be justified. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court and such an absence cannot necessarily be construed as deliberate and wilful. 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 was 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 in 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.

In view of the facts and circumstances of the case, the impugned order

dated 15.11.2018, is set aside subject to surrender by the petitioner before the trial Court on 14.09.203 and depositing Rs.10,000/- as costs, with the Advocates Welfare Fund, Punjab & Haryana Bar Association. On furnishing bail/surety bonds, the trial Court shall release him on bail subject to its satisfaction. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

8. The present petition is allowed in part.

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.

31.08.2023
Anjal

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No