

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

Sr. No.254

CRM-M-20902-2021

Date of decision : 11.01.2023

Inderpal Singh

.....Petitioner(s)

Versus

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.PS Sekhon, Advocate for the petitioner

Mr.Kamalpreet Bawa, AAG, Punjab

Mr.RK Jaswal, Advocate for the complainant

AMAN CHAUDHARY, J.

The present petition under Section 482 Cr.P.C. has been filed for setting aside the order dated 10.06.2019, Annexure P-3, passed by learned Judicial Magistrate, 1st Class, Patiala whereby the petitioner was declared as proclaimed person in case FIR No.155 dated 08.07.2018 registered under Sections 420 IPC and Section 13 of Punjab Prevention of Human Smuggling Act at Police Station Civil Lines Patiala, District Patiala.

Learned counsel refers to Annexure A-1, copy of passport, to contend that the petitioner had left the country on 11.10.2016 and he came back on 13.08.2019. Thereafter, he went again abroad and came back on 15.10.2020 and since then he is in India. The FIR in question was registered on 08.07.2018 and while he was abroad, the proclamation proceedings were initiated against him, however, It is his submission that proper procedure as envisaged under Sections 41, 105 and 82 Cr. P.C. was not followed, inasmuch as he was residing abroad. He further submits that the petitioner neither participated in the alleged crime in any manner, nor had any knowledge about the aforesaid FIR.

It is his submission that the absence of the petitioner was

neither intentional nor willful but for the reasons aforesaid. He further contends that the petitioner is ready and willing to surrender before the trial Court and apply for bail, for which he prays for grant of only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate to impose. To buttress his submission, he places reliance on the judgments of this Court in **Gurbir Singh Mundi vs. State of Punjab and another** CRM-M-49283-2021, decided on 16.12.2021 and **Jasbir Kaur vs. State of Punjab and another**, CRM-M-25115-2022, decided on 2.6.2022.

Learned counsel for the complainant has raised serious objection to the prayer made and contended that the impugned order is legal and valid. He prays for the dismissal of the present petition.

Heard the learned counsel for the parties.

In the case of **Gurbir Singh Mundi** (supra), it was held that provisions of Section 82(2) Cr.PC. are to be mandatorily complied with cumulatively and not alternatively. The Court had quashed the order declaring the petitioner therein as proclaimed person on the ground that declaration was not read publicly in some conspicuous place of town or village, in which the accused ordinarily resides.

In the case of **Jasbir Kaur** (supra), since the petitioner therein was a Non Indian Resident lady residing in Canada and proclamation proceedings had been initiated while she was not in India, as such, the order of proclamation was set aside.

The very purpose of issuance of summons, warrants etc. 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.

Adverting to the facts of the present case inasmuch as it was because the petitioner had left the country prior to the registration of the FIR, which appears to be justified explanation of his absence. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering his readiness and willingness to surrender and join the proceedings for which he is seeking only one opportunity and the absence of his not being willful and deliberate and no

prejudice shall be caused to the complainant, rather his joining the proceedings would help in expediting the trial, which is in the interest of the parties thus, in order to meet the ends of justice and on finding judgments referred to above being applicable to the instant case, the present deserves to be allowed.

Accordingly, the present petition is hereby allowed. The impugned order dated 10.06.2019, Annexure P-3, is set aside, subject to payment of costs of Rs.10,000/- to be deposited with District Bar Association, Patiala. However, in case the petitioner surrenders before the trial Court on or before 24.01.2023 and files an application for regular bail, the same be decided expeditiously. 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.

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.

11.01.2023
gsv

(AMAN CHAUDHARY)
JUDGE

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