

247.

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

CRM-M-35888-2018

Date of decision: 31.07.2023

Puran Singh

...Petitioner

VS

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. P.P.S. Duggal, Advocate for the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks setting aside of order dated 13.01.2017 (Annexure P4) vide which he was declared as a proclaimed offender in FIR No.169 dated 03.07.2015 registered under Sections 302, 323, 148 and 149 IPC at Police Station Sadar Ferozepur, District Ferozepur.

2. A coordinate Bench of this Court, earlier seized of the matter, passed the following order on 12.10.2018:-

“Prayer in this petition is for setting-aside the order dated 13.01.2017 (Annexure P4) vide which the petitioner was declared as proclaimed offender in FIR No.169 dated 03.07.2015 registered under Sections 302, 323, 148 and 149 IPC at Police Station Sadar Ferozepur, District Ferozepur.

Counsel for the petitioner has submitted that after registration of the FIR, during the investigation, the SHO, Police Station Sadar Ferozepur, had found the petitioner innocent vide his report dated 19.10.2015 and the same was approved by the Deputy Superintendent of Police, however, when it was sent for approval before the Senior Superintendent of Police, it was directed that challan be presented against all the accused persons including the petitioner and the petitioner was under the impression that being an innocent, he stands exonerated in the FIR. It is further submitted that before

passing of the order declaring the petitioner as proclaimed offender, the proper procedure was not followed as per Sections 82 and 83 of the Criminal Procedure Code, as the service of proclamation was not made at the ordinary place of residence of the petitioner.

Counsel for the petitioner has further argued that the petitioner is the Lambardar of the village and is residing in the same village since then and, therefore, it is not the case of the prosecution that the petitioner was not available in the village, when the service was effected upon him and, therefore, the report of Process Server was factually incorrect.

Counsel for the petitioner has also submitted that as per the allegations in the FIR, the petitioner is attributed an injury to one of the injured witness and 13 of the co-accused of the petitioner, who faced the full length trial stands acquitted by the Additional Sessions Judge, Ferozepur vide judgment dated 09.04.2018, holding that the prosecution has failed to prove the case against the aforesaid 13 accused persons. It is further submitted that the case of the petitioner is on identical footing and he is ready to surrender before the trial Court and apply for regular bail.

Notice of motion for 30.01.2019.

In the meantime, the petitioner is directed to appear before the Illaqa Magistrate, who will release the petitioner on interim bail subject to his furnishing bail/surety bonds and on payment of costs of Rs.20,000/- to be deposited in the Government Treasury under the head to be nominated by the Illaqa Magistrate.”

3. *Apropos, petitioner caused appearance before learned trial Court and has been admitted on bail. Further proceedings in the trial Court are to commence/conclude in accordance with law.*

4. *Being so, no further proceedings is required before this Court as the law will take its own course.*

5. *As regards the impugned order dated 13.01.2017, since the content and mandate of the same already stands satisfied i.e. the very purpose of the same was securing the presence of the petitioner who has already appeared and has been admitted to bail and has been participating in the trial thereof, the order declaring the petitioner as a proclaimed offender is therefore, set aside.*

- 6. Petition stands disposed of accordingly.
- 7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

31.07.2023
sanjeev

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