

2023:PHHC:073788

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 204

CRM-M-19985-2023

Date of decision : 22.05.2023

Rakesh Kumar

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Mahir Sood, Advocate, for the petitioner.

Mr.A.P.S.Tung, DAG, Punjab.

DEEPAK SIBAL, J. (ORAL)

(1) Through the present petition filed under Section 482 Cr.P.C. the petitioner seeks setting aside of the orders dated 14.02.2023, 03.03.2023 and 06.04.2023 passed by the Additional Chief Judicial Magistrate, Jalandhar through which to secure the petitioner's presence non-bailable warrants had been issued as also proceedings under Section 82 Cr.P.C. have been initiated to declare the petitioner a proclaimed person.

(2) On 11.05.2023 this Court had passed the following order: -

“On April 26, 2023, this Court had passed the following order:-

“Learned counsel for the petitioner inter-alia contends that since the year 2019, the petitioner is serving as a Regional Administrative Manager of M/s Cannaught Plaza Restaurants Private Limited (for short - the Company) which runs the McDonalds Restaurant North and East of this Country and posted at Jalandhar; since October 2019, the petitioner is sought to be served at his permanent address in Himachal Pradesh where he has never resided after his employment with the Company; thus, the petitioner has never been served before issuance of the impugned arrest warrants qua him; the petitioner has no other criminal antecedents and that the petitioner is also ready and willing not only to join the proceedings but also appear on each and every date before the trial court.

Notice of motion.

Mr. Arun Luthra, DAG, Punjab, accepts notice on behalf of

the respondent-State.

Adjourned to 11.05.2023.

Subject to the petitioner's appearing before the trial court within one week from today he shall be admitted to ad interim bail to the trial court's satisfaction.

The Commissioner of Police, Jalandhar is directed to hold a fact finding enquiry as to why for nearly 04 years the petitioner, who is an employee of a popular restaurant in Jalandhar, was not served and file a report before the adjourned date.

To be taken up after the urgent matters.”

Learned counsel for the petitioner submits that in terms of the afore quoted order the petitioner had appeared before the trial court and has also been admitted to ad interim bail to the trial court's satisfaction. However, since this fact is disputed by the learned State counsel, learned counsel for the petitioner is directed to produce a copy of the order passed by the trial court admitting the petitioner to interim bail.

Adjourned to 22.05.2023.

In the afore quoted order Commissioner of Police, Jalandhar was also directed to hold a fact finding inquiry as to why for nearly 04 years the petitioner, who is an employee of a popular restaurant in Jalandhar, was not served with a further direction to file a report in this regard. No such report has been filed. No extension of time for doing the needful has also been sought.

Let Commissioner of Police, Jalandhar appear on the adjourned date to assist the Court in this regard.”

(3) Learned State counsel submits that in pursuance to the afore quoted order of this Court the petitioner has duly appeared before the trial court and has also been granted ad interim bail to the trial court's satisfaction.

(4) After considering the submissions made on behalf of the petitioner as has been recorded in the afore quoted order of this Court and because the petitioner has shown his *bonafides* by appearing before the trial court, the trial court is directed to favourably consider to make the petitioner's bail absolute, in accordance with law.

(5) In the light of the above, the impugned orders dated 14.02.2023, 03.03.2023 and 06.04.2023 passed by the Additional Chief Judicial Magistrate, Jalandhar are also set aside.

(6) There is another aspect of the matter with regard to the laxity shown by the State in serving the petitioner. Regarding such inaction on the part of the State, Mr.Kuldeep Singh Chahal, Commissioner of Police, Jalandhar has appeared and filed his affidavit dated 20.05.2023 in which he has stated that *prima facie* laxity has been found on the part of the police in serving the petitioner to procure his presence before the court and that disciplinary proceedings have been initiated against the erring official(s).

(7) Put up on 03.08.2023 on which date the State shall file a fresh affidavit with regard to the status of the disciplinary proceedings initiated against the erring officials.

22.05.2023
shamsher

[DEEPAK SIBAL]
JUDGE

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