

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

CRM-M-22019-2023

Date of Decision: 12.05.2023

AJAY KUMAR

..... PETITIONER

VS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present : Mr. Gursimran Singh Bhatia, Advocate for the
petitioner.

GURBIR SINGH, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C for quashing of order dated 17.09.2022 passed by JMIC, Kharar, Mohali vide which the bail order of petitioner was cancelled and warrant of arrest issued in case FIR No. 162 dated 09.07.2019 under Sections 454, 380 IPC (Sections 411, 201 added later on) registered at Police Station Kharar, District SAS Nagar and with a further prayer to stay the execution of proclamation warrant which is now pending for 16.05.2023.

Learned counsel for the petitioner submits that the petitioner was on regular bail as per order dated 18.07.2019 passed by JMIC, Kharar, Mohali (Anneuxre P-2). He further states that petitioner was attending the Court regularly but on one day i.e. 17.09.2022 petitioner could not appear in the Court and on the same day bail granted to the petitioner was cancelled. The bail bonds and the surety bonds were forfeited to the State and nonailable warrant was issued against the

petitioner. Thereafter the petitioner filed the application for anticipatory bail but the same was withdrawn on the advice that order of cancellation of bail was required to be got set aside. There was no intention to evade the proceedings of the Court. The learned trial Court issued proclamation under Section 82 Cr.P.C against the petitioner. The learned counsel for the petitioner has produced the copy of order dated 05.01.2023 and 09.03.2023. He further submits that order dated 09.03.2023 clearly indicate that as the period of 30 days after the execution of proclamation against petitioner had not been elapsed and the case was adjourned for 10.04.2023. On 10.04.2023, file was sent to the learned Additional Sessions Judge, SAS Nagar, Mohali and the case was further adjourned to 16.05.2023.

Notice of motion.

At the asking of the Court, Ms. Himani Arora, AAG, Punjab accepts notice on behalf of respondent-State. A copy of the paper book be supplied to her during the course of the day.

On the perusal of the interim orders, it is clear that the learned trial Court is not following the provision of Section 82 Cr.P.C in letter and spirit. So many times this Court has held that there should be clear 30 days notice after effecting proclamation against the person who is absconded, to appear in the Court. In spite of this, learned trial Court after issuing the proclamation and receipt there of is awaiting that 30 days were yet to elapse. The publication of proclamation issued against the petitioner is against law and petitioner cannot be declared absconded on the basis of said publication.

The petitioner is ready to surrender before the learned trial Court on or before 16.05.2023. Let petitioner surrender before the learned trial Court/ Duty Magistrate and doing so, he shall be admitted to bail subject to his furnishing bail bonds and surety bonds to its satisfaction to the trial Court/ Duty Magistrate.

In case of default this order shall automatically stand vacated. The petitioner is burdened with the cost of Rs.2500/- to be deposited in the account of District Legal Services Authority, concerned.

Petition stands disposed of.

(GURBIR SINGH)
JUDGE

12.05.2023
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>