

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

CRM-M-26016-2023 (O&M)

Reserved on: 04.09.2023

Pronounced on: 06.09.2023

Sanjay Arora

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Ms. Pinki Mehla, Advocate, for the petitioner.

Mr.Randhir Singh, Addl. A.G., Haryana.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 482 Cr.P.C. is to quash impugned order dated 27.04.2022 (Annexure P3) passed by Ld. JMIC, Panipat and the subsequent proceedings, in FIR No.228 dated 28.04.2022 registered at Police Station Panipat City, Panipat under Section 174A of IPC.

2. Petitioner was facing trial in a case arising out of FIR No.871 dated 07.07.2016, registered at Panipat City, Panipat, under Sections 279 & 304-A IPC. He was on bail in that case. The case was being tried in the Court of Ld. JMIC, Panipat. The case reached at the stage of defence evidence/arguments, after prosecution evidence and the statement of accused under Section 313 CrPC. However, on 18.02.2021, he failed to appear in the Court without any intimation. Warrant of arrest was directed to be issued against him for 31.03.2021. The said warrants were received back as un-executed, due to which his bail was cancelled

and bonds were forfeited. Fresh warrants of arrest issued against the petitioner-accused did not yield any result and so, proclamation under Section 82(2)(i) CrPC was directed to be issued vide order dated 07.03.2022 for 27.04.2022. The serving official was asked to get his statement recorded on or before 23.03.2022 regarding due publication of proclamation. The proclamation was duly effected on 14.03.2022, as per the statement made by the Executing Constable. However, petitioner did not appear on 27.04.2022, the date fixed in the proclamation to surrender and therefore, he was declared proclaimed person vide order dated 27.04.2022 (Annexure P3) and on the direction of the Court, FIR No.228 dated 28.04.2022 under Section 174-A IPC was registered against him at Police Station, Panipat City, Panipat (Annexure P4).

3. Contention of Id. counsel is that petitioner was regularly appearing before the Court; that as per the report of the Executing Constable, Panipat, petitioner was not residing in the house, which he had vacated about 3 years back. Still further, it is submitted that son of the petitioner had died on 09.03.2020, due to which petitioner being under depression could not contact his counsel and that it is because of this reason that petitioner could not appear. It is further submitted that petitioner is living with his family at Siwan Gate, Kaithal, where he was never served; that he is ready to face further trial and in all the circumstances, impugned order dated 27.04.2022, consequent FIR No.228 dated 28.04.2022 under Section 174-A IPC registered against him at Police Station, Panipat City, Panipat and subsequent proceedings be quashed.

4. Since petitioner had been earlier allowed bail in the case under Sections 279 & 304-A IPC, in which he was facing trial, he was asked to place on record copy of bail bonds, which he had furnished in the Court at the time of grant of bail. Pursuant to the said direction, petitioner placed on record copy of the bail bonds furnished by him as Annexure P8, in which he disclosed his address as Gali No.1, Bhagat Nagar, Panipat.

5. Ld. State counsel has opposed the petition by pointing out towards the conduct of the petitioner, who absented from trial despite being granted bail and thus, misused concession of bail.

6. Heard.

7. The statement of the Executing Constable (Annexure P5) would reveal that proclamation was effected at the same address i.e. Gali No.1, Bhagat Nagar, Panipat, which had been provided by the petitioner at the time of furnishing his bonds. Ld. counsel for the petitioner conceded that the petitioner had changed his address as he had shifted from the given address but never provided the fresh address to the Court.

8. In the above circumstances, petitioner cannot be allowed to plead that he was not served at his address in Kaithal, where he is presently residing, once it is found that proclamation was effected at the address provided by him at the time of furnishing bonds and he had never informed the court about change of his address.

9. Another contention of the ld. counsel for the petitioner to the effect that son of the petitioner had expired on 09.03.2020, due to which he could not contact his counsel, is also without any merit because after

the date of 09.03.2020, he had put in appearance before the Court on 28.01.2021 and then absented on the next date of hearing i.e. 18.02.2021.

10. In view of all the aforesaid circumstances, when petitioner grossly misused the concession of bail granted to him and did not respond even to the proclamation effected as per law under Section 82 CrPC, there is no justification for quashing the impugned order dated 27.04.2022, declaring him as proclaimed person or the consequent FIR No.228 dated 28.04.2022, registered at Police Station Panipat City, Panipat under Section 174A of IPC.

Dismissed.

(DEEPAK GUPTA)
JUDGE

06.09.2023

Vivek

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No