

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.M-26067-2023(O&M)

Date of Decision: July 04, 2023

Naveen Hans

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: - Mr.Amit Dhawan, Advocate
for the petitioner.

Mr.Digvijay Nagpal, AAG, Punjab
for respondent No.1.

Mr.Ramandeep Singh Brar, Advocate
for respondent No.2.

VIKAS SURI, J.

By filing the present petition, Naveen Hans - petitioner has challenged the order dated 03.10.2017 (Annexure P-2) passed by Judicial Magistrate Ist Class, Kapurthala, whereby, he has been declared 'Proclaimed Person' in case FIR No.80 dated 14.09.2016 under Sections 406, 420, 120-B IPC, registered at Police Station Bholath, District Kapurthala.

2. The background of the case was taken note of while issuing notice of motion on 22.05.2023, which order reads:

“Learned counsel for the petitioner submits that due to a financial dispute with respondent No.2- -Kanwaljit Singh, one complaint dated 04.01.2013 was moved and thereafter, one FIR No. 80, dated 14.09.2016 under Sections 406, 420 and 120-B IPC, was registered against petitioner at Police Station Bholath, District Kapurthala. In fact, petitioner had gone abroad (United States of America) and is settled there since the year 2016 i.e. before registration of the FIR.

3. Counsel further submits that for the said financial dispute, there was a compromise deed executed between petitioner and respondent No.2 on 05.07.2019 (Annexure P-4). As per said compromise, petitioner was required to pay an amount of Rs. 7 lacs to respondent No.2.

4. Counsel also submits that one quashing petition i.e. CRMM-31279-2019 for quashing of said FIR on the basis of compromise was also instituted before this Court, but due to the pendency of proceedings in pursuance to the declaring of petitioner as proclaimed person, petitioner could not come to India, resulting thereto dismissal of the said petition, vide order dated 24.11.2021 (Annexure P-7).

5. Counsel further submits that another petition i.e. CRM-M18153-2019 instituted by the petitioner for seeking quashing of the impugned order of proclaimed person dated 03.10.2017 was also dismissed by this Court vide order dated 24.11.2021 (Annexure P-6).

Operative part of the said order dated 24.11.2021 says as under:-

“Present: None for the petitioner.

Mr. C. L. Pawar, Senior Deputy Advocate
General, Punjab, for the respondent-State.

ASHOK KUMAR VERMA J. (ORAL)

None had appeared on behalf of the petitioner on the last two dates. Even today none is present on behalf of the petitioner. It appears that the petitioner is not interested to pursue this petition. The present petition is dismissed in default of appearance and for non-prosecution.”

6. Learned counsel for the petitioner submits that because of pendency of the proceedings in the said criminal cases and also existence of order of proclaimed person, petitioner is unable to settle the financial dispute with respondent No. 2, whereas, he is very much interested in coming to India and to make the payment for finally finishing of all the proceedings arising from FIR No.80 dated 14.09.2016 under Sections 406, 420 and 120-B IPC, registered at Police Station Bholath, District Kapurthala.

7. Counsel submits that if one last opportunity is afforded to him to surrender before the Court concerned and to join the proceedings, he is ready to come back to India as soon as possible, for the purpose as submitted today before this Court. Counsel also submits that said concession can be granted to him subject to imposing of some cost amount also, as this Court deems it reasonable and appropriate.

8. Notice of motion.

On asking of the Court, Mr. Vinay Kumar Gupta, AAG, Punjab accepts notice on behalf of respondent No. 1-State.

Respondent No.2 be served through registered post also.

9. Since paramount consideration is to secure the presence of the accused and to decide the trial at the earliest, it is directed that if petitioner, appears before trial Court/Area Magistrate/ CJM/ Duty Magistrate on or before 16.06.2023, where the proceedings under the aforementioned FIR are pending, trial Court would release him on interim bail subject to the satisfaction of learned Trial Court/ Illaqa Magistrate/ Chief Judicial Magistrate/ Duty Magistrate.

10. However, order of releasing the petitioner on bail would be subject to the depositing of an amount of Rs.1 lac (Rs. 1,00,000/-) as cost amount in total. It is clarified that an amount of Rs. 50,000/- out of the said total amount of Rs. 1,00,000/- would be deposited in the District Bar Welfare Association, Kapurthala, and the remaining amount of Rs.50,000/- would be deposited in the Punjab and Haryana High Court Bar Association Lawyers Family Welfare Fund in current account No.41534846387.

11. However, it is also made clear that petitioner would not be arrested on account of the impugned order dated 03.10.2017 regarding proclaimed person, on his reaching at Airport, till he reaches the concerned Court within one week of his landing in India.

12. Adjourned to 04.07.2023.”

3. Short reply has been filed on behalf of the State – respondent No.1 reiterating the allegations against the petitioner.

4. Mr.Digvijay Nagpal, AAG, Punjab has further submitted that pursuant to the order dated 22.05.2003, the petitioner appeared before the trial Court on 03.06.3023 and he was admitted to bail. The order dated 03.06.2023 reads:

“Present: Sh.Bharat Bhushan Sekhri, Advocate
for the applicant.

File taken up today on the application moved by the learned counsel for the applicant/accused Naveen Hans for furnishing bail bonds and surety bonds in compliance with order dated 22.05.2023 passed by the Hon'ble High Court in CRM-M-26067 of 2023. Along with application learned counsel for the applicant has also submitted a copy of abovesaid order dated 22.05.2023. He has also placed on record copy of receipts of cost so imposed by the Hon'ble High Court. As per order dated 22.05.2023 passed by the Hon'ble High Court, the applicant/ accused Naveen Hans is directed to furnish personal bonds in the sum of Rs.1,00,000/- with

one surety in the like amount. Requisite bail bonds and surety bonds furnished, which are accepted and attested. Papers be sent back to the concerned Court for further proceedings.

Date of order: 03.06.2023

sd/- (Shivani Garg)
Judicial Magistrate First Class-I (Duty)"

5. Mr.Ramandeep Singh Brar, Advocate has put in appearance on behalf of respondent No.2 - complainant Kanwaljit Singh and filed his power of attorney in Court, which is taken on record. He has not disputed the aforesaid position and also the factum of compromise arrived at between the parties, as has been the case of the petitioner.

6. Taking into account the above facts of the present case, no further orders are required in this petition.

7. The petitioner shall continue to appear before the Trial Court on each and every date, as and when so required.

8. Disposed of accordingly.

July 04, 2023

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(VIKAS SURI)
JUDGE

Whether Speaking / Reasoned : Yes/No

Whether Reportable : Yes/No