

**273-a IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Neutral Citation No. 2023:PHHC:155329
CRM-M-27740-2023
Date of Decision: December 05, 2023**

Rakesh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Pawandeep Singh, Advocate for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

DEEPAK GUPTA, J.(Oral)

By way of this petition under Section 482 Cr.P.C., petitioner prays to quash the order dated 09.04.2012 (Annexure P-1) passed by learned Sub Divisional Judicial Magistrate, Mohali, in case FIR No.51 dated 01.08.2011, under Sections 420, 465, 467, 468, 471, 120-B, 477-A of IPC, registered at Police Station Phase 8, District SAS Nagar, whereby petitioner was declared proclaimed person, along with all the consequential proceedings arising therefrom.

It is contended by learned counsel for the petitioner that by way of the order dated 09.01.2012 (Annexure P-3), during the investigation, the Investigating Officer of the case prayed for issuing warrants of arrest against the petitioner- Rakesh Kumar and one Suresh Chaudhari @ Suresh Kumar. Warrants were accordingly issued for 02.02.2012. Said warrants were received with the report that accused was concealing from arrest, so the Court ordered issuance of the proclamation for 14.03.2012.

Learned counsel has pointed out that no observation was made by the Court as to why the proclamation was necessary to be issued.

No satisfaction was recorded by the Trial Court that presence of the petitioner could not be secured by any other means and that he has concealed himself.

Learned counsel for the petitioner further contends that in compliance of the order dated 02.02.2012, the proclamation was effected on 08.03.2012 for 14.03.2012. Since, the period of 30 days had not elapsed, so Court simply adjourned the matter for 09.04.2012 and then vide impugned order dated 09.04.2012, the petitioner was declared proclaimed person.

Learned State counsel does not refute the aforesaid contention of learned counsel for the petitioner.

I agree with the contention of learned counsel for the petitioner that there is gross violation of Section 82 Cr.P.C. Apart from the fact that the Court failed to the record itself satisfaction that petitioner was concealing himself or absconding, the Court also did not issue any proclamation for 09.04.2012, on which date the petitioner was declared proclaimed person; whereas on 14.03.2012, for which date the proclamation was issued, the period of 30 days had not elapsed.

In the aforesaid circumstances, the impugned order dated 09.04.2012 (Annexure P-1) along with all the consequential proceedings arising therefrom, is hereby set aside.

However, the petitioner is hereby directed to surrender before the Trial Court concerned within 30 days positively from today. On his such appearance, the petitioner shall move necessary bail application, which shall be considered by the Trial Court in accordance with law. It is

also made clear that if in the meantime, the Trial Court has consigned the record sine die, then it will revive the proceedings and proceed further, in accordance with law.

Disposed of.

December 05, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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