

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

CRM-M-29289-2023

Date of Decision: 02.06.2023

Balram @ Balu

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Anshumaan Dalal, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for quashing of the impugned order dated 31.01.2023, passed by the learned Judicial Magistrate, Rohtak, whereby, the present petitioner was declared proclaimed offender in a case FIR No.259, dated 09.09.2014, registered under Sections 323, 325, 506, 34 IPC, at Police Station Old Sabzi Mandi Rohtak, District Rohtak.

It has been contended by learned counsel for the petitioner that after registration of the FIR, the petitioner was granted bail on 14.09.2014 by the learned trial Court and he was duly appearing before it in the proceedings, however, the petitioner failed to appear before the Court on 22.11.2022 as he was nominated in another FIR and his bail was cancelled and his bail/surety bonds were forfeited to the State. He submits that the petitioner was declared proclaimed offender in violation of provisions of Sections 82 and 83 Cr.P.C. vide order dated 31.01.2023. He submits that the petitioner duly surrendered before the Court on 14.02.2023 and he was granted bail by the Court on 10.03.2023. He submits that as the petitioner has already surrendered and released on bail by the trial Court vide order dated 10.03.2023, he is no more proclaimed person, however, learned trial

Court vide impugned order dated 31.01.2023 directed the SHO to register FIR against the petitioner under Section 174-A IPC and to initiate the proceedings under Section 83 Cr.P.C. He submits that the petitioner has already surrendered before the trial Court and has been granted bail and for the last six years he has been duly appearing before the trial Court without violating terms and conditions of the bail granted to him, however, on one date he remained absent and he was declared proclaimed offender. He has submitted that in these facts and circumstances, the direction given by the trial Court for registering the FIR under Section 174-A IPC would be nothing but an abuse of the process of the Court and thus, the same deserves to be set aside. He further submits that the petitioner undertakes to abide by any terms and conditions imposed by the Court and will appear regularly before the Court.

Notice of motion.

Mr. Kirpal Singh Thakur, Assistant Advocate General, Haryana, accepts notice on behalf of the State.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and has stated that the trial Court has rightly cancelled the bail of the petitioner as he failed to appear before it on the date fixed.

Heard.

Evidently, the petitioner had been prosecuted in the above-said FIR and thereafter, he was granted bail on 14.09.2014. The petitioner had been regularly appearing before the trial Court, however, thereafter due to registration of another FIR against the petitioner, he failed to appear on 22.11.2022 and thus, he was declared proclaimed offender vide impugned

order dated 31.01.2023. It is further apparent that the petitioner himself surrendered before the trial Court on 14.02.2023 and thereafter was granted bail by the learned trial Court vide order dated 10.03.2023, thus, the petitioner is no more proclaimed offender. The trial Court also directed for registration of the FIR under Section 174-A IPC against the petitioner. The petitioner is a labourer and has been appearing before the trial Court regularly. As submitted before this Court, he has already surrendered and granted bail again by the learned trial Court. In the facts and circumstances of the case, this Court finds that registration of the FIR under Section 174-A IPC when the petitioner is no more proclaimed offender as on date, would be nothing but an abuse of the process of the Court, thus, the direction of the trial Court to extent of directing the SHO to register the FIR under Section 174-A IPC is set aside subject to payment of Rs.10,000/- as costs to be deposited with the Poor Patients' Welfare Fund, PGIMER, Chandigarh by the petitioner within a period of 7 days from today. It is being made clear that the petitioner would keep on appearing before the trial Court in the main case as per its direction.

The petitioner is directed to furnish the receipt of costs before the trial Court within a period of 10 days from today failing which he will have no benefit of above said order and the order dated 31.01.2023 with regard to abovesaid direction will come in force.

02.06.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No