

CRM-M-32696-2023 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(127)

CRM-M-32696-2023 (O&M)

Date of Decision:- 21.09.2023

Rahul @ Rinku

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. G.S.Dhindsa, Advocate for the petitioner.

SUVIR SEHGAL, J. (Oral)

CRM-27772-2023

1. Application is allowed as prayed for.
2. Leave, as prayed for, is granted.

Main case

1. By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner has sought quashing of order dated 26.10.2022, Annexure P-3, passed by the Trial Court, whereby he has been declared as a proclaimed person.
2. Counsel for the petitioner submits that petitioner has been named as an accused in FIR No.145 dated 30.06.2018, lodged for offence under Section 61 of the Punjab Excise Act, 1914 at Police Station Tripuri, Patiala. Counsel submits that the petitioner was released on bail by the Trial Court by order dated 06.07.2018 and has been regularly appearing before the Trial Court. While making a reference to the Disability Certificate, Annexure

P-2, counsel submits that the petitioner is 100% handicapped and has Post Polio Residual (PPR) of lower limbs. It has been asserted that due to his disability, petitioner could not appear before the Trial Court and his bail was cancelled by order dated 29.08.2019. Counsel submits that non-bailable warrants were issued to secure his presence, but they remained unserved and the Trial Court initiated proceedings under Section 82, Cr.P.C. Counsel submits that proclamation was effected on 28.07.2022 for appearance of the accused on 17.08.2022. Counsel contends that as the petitioner did not get clear 30 days notice for appearance, impugned order declaring the petitioner as a proclaimed person cannot be sustained. Counsel submits that the petitioner is prepared to surrender before the Trial Court and join the proceedings, subject to any reasonable condition or cost imposed by this Court.

3. Notice of motion.

4. On asking of the Court, Mr. Arun Luthra, DAG, Punjab accepts notice on behalf of the State-respondent. Upon instructions received from SI, Gurbinder Singh, he submits that the petitioner is involved in fourteen other criminal cases registered against him under the Punjab Excise Act, 1914.

5. I have heard counsel for the parties and considered their respective submissions.

6. This Court in *Anita Sharma Versus State of Punjab (CRM-M-25088-2021*, decided on 16.07.2021) has held that the requirement of giving 30 days notice, which flows from the statutory provision, is mandatory and its non-adherence vitiates the PO proceedings. It is evident

from the material placed on the record that the period provided by the statute had not lapsed on 17.08.2022 and the Trial Court adjourned the proceedings to 26.10.2022, when the impugned order was passed. In view of the above, order declaring the petitioner as proclaimed person, cannot be sustained.

7. Noticing the allegations, disability of the petitioner and his willingness to join the proceedings, it is directed that in case the petitioner surrenders before the Trial Court within a period of four weeks from today and moves an appropriate application, he shall be released on bail on furnishing fresh bail/surety bonds to the satisfaction of the Trial Court. This will be subject to deposit of cost of Rs.20,000/- with the Poor Patient Welfare Fund, PGIMER, Sector-12, Chandigarh, which shall be a condition precedent to his release on bail. The receipt of deposit shall be furnished by the petitioner before the Trial Court.

8. Disposed of.

(SUVIR SEHGAL)
JUDGE

21.09.2023
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No