

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

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CRM-M-33902-2023 (O&M)

Date of decision: 17.07.2023

Joginder Singh @ Jogender Bhoat

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Ms. Lipika, Advocate for
Mr. RS Mamli, Advocate for the petitioner.

AMAN CHAUDHARY, J

1. The present petition has been filed under Section 482 CrPC for quashing of order dated 31.01.2014 (Annexure P-2) vide which the petitioner has been declared proclaimed person in FIR No.353 dated 08.07.2011 registered under Section 379 IPC at PS City Yamuna Nagar, District Yamuna Nagar.

2. Learned counsel submits that the petitioner never received any summons or warrants, for which reason, he could not cause appearance in the Court. His absence is neither wilful nor deliberate. Further that he is ready and willing to join the proceedings and it is prayed that one opportunity may be granted to him to surrender before the learned trial Court even if the same is subject to costs. Reliance is placed on the orders of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of **Surjit Singh vs. State of Punjab**, CRM-M-39000-2022, titled as **Raghav vs. State of Punjab**, decided on 09.09.2022 and CRM-M-36490-2022, titled as **Major Singh vs. State of Punjab**, decided on

15.9.2022.

3. Notice of motion.

4. Mr. Jagdish Manchanda, Addl. AG, Haryana, who has appeared on receipt of advance copy of the petition, opposes the same by submitting that the impugned order is legal and valid and has been rightly passed by the trial Court on account of non-appearance of the petitioner.

5. Heard.

6. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule of law, as also to ensure finalization of the proceedings.

7. Adverting to the facts of the present case, the reasons for non-appearance of the petitioner that led to the passing of the impugned order, appear to be justified. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court and such an absence cannot necessarily be construed as deliberate and wilful. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering the fact that the absence of the petitioner was not wilful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help in expediting the trial. Considering the aforesaid reasons and finding judgments referred to above being applicable to the instant case, this Court finds that the ends of justice would be adequately met if the present petition is allowed.

8. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 31.01.2014, Annexure P-2 is set aside subject to surrender by the petitioner before the trial Court on or before 28.07.2023 and depositing Rs.10,000/- with the District Bar Association, Yamuna Nagar and furnish his fresh bail/surety bonds. On so doing, the trial Court shall release him on bail subject to its satisfaction. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

9. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

17.07.2023

ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No