

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

116

CRM-M-38791-2023 (O&M)
Date of decision: 09.08.2023

Manoj

....Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Ram Bilas Gupta, Advocate for the petitioner

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 CrPC for quashing of the FIR No.246 dated 06.07.2009, registered under Sections 419, 420, 467, 468, 471 and 120-B IPC, at Police Station Sector-8, District Faridabad along with the impugned order dated 07.04.2022 (Annexure P-3) passed by learned ACJM, Faridabad vide which the petitioner has been declared proclaimed person.

2. Learned counsel submits that the petitioner was a 2nd witness on the sale deed executed in favour of co-accused Pankaj Sharma, who has since been acquitted by learned Additional Chief Judicial Magistrate, Faridabad vide judgment dated 30.01.2023, Annexure P-5. The petitioner in the present FIR, had been enlarged on regular bail and continued to appear before the trial Court on each and every date. However, on 07.02.2020, he failed to appear before the Court due to family problems and could not even contact

and inform the counsel appearing for him, which led to the cancellation of his bail and forfeiture of his bail/surety bonds to the State as well as issuance of non-bailable warrants. Consequently, he was declared proclaimed person vide order dated 07.04.2022, Annexure P-3. The absence of the petitioner is neither wilful nor deliberate and on account of the reason aforesaid. Further that he is ready and willing to join the proceedings and restricts his prayer in the present petition only regards to grant of one opportunity 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. No order prejudicial to the rights of the private respondent is being proposed to be passed by this Court, thus, there is no requirement for the notice to be issued to her.

6. Heard.

7. 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.

8. 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. Thus, in order to make the ends of justice meet and finding judgments referred to above being applicable to the instant case, the present petition deserves to be allowed.

9. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 07.04.2022, Annexure P-3 is set aside subject to surrender by the petitioner before the trial Court on or before 23.08.2023 and depositing Rs.10,000/- as costs, with the District Bar Association, Faridabad. On furnishing bail/surety bonds, 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.

10. The present petition is allowed in part.

11. 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.

(AMAN CHAUDHARY)
JUDGE

August 09, 2023

M.Kamra

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No