

CRM-M-41937-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(121)

CRM-M-41937-2023 (O&M)

Date of decision:- 31.08.2023

Vikas Bajaj

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vikram Singh Jakhar, Advocate for the petitioner.

SUVIR SEHGAL, J. (Oral)

CRM-36433-2023

1. Application is allowed as prayed for.
2. Annexures P-6 to P-9 are taken on record.

Main case

1. By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner has approached this Court for quashing of impugned order dated 05.03.2003, Annexure P-2, passed by learned Chief Judicial Magistrate, Kapurthala, whereby he has been declared as a proclaimed offender in FIR No.2 dated 03.01.2002, registered for offences under Sections 406, 420 and 120-B, IPC read with Section 24 of the Emigration Act, 1983 at Police Station Kotwali Kapurthala, District Kapurthala, Punjab, Annexure P-1.

2. Counsel for the petitioner submits that petitioner was named as an accused in FIR, Annexure P-1, and without effecting service upon him, he has been declared as a Proclaimed Offender by virtue of the impugned order. By referring to the proclamation notice, Annexure P-7, counsel contends that the notice is not as per form no.4 of the Second Schedule appended to the Code of Criminal Procedure, 1973 inasmuch as that it does not mention the date and specific Court for appearance of the accused. Counsel submits that as per the statement of the serving officer, proclamation was effected on 07.02.2003, but petitioner did not get a clear 30 days notice before the petitioner has been declared as an absconder by the impugned order passed on 05.03.2003. He asserts that proclamation notice simply requires the petitioner to appear in the Court at Kapurthala within 30 days. Counsel submits that in the meantime, offence qua co-accused has been compounded vide order dated 20.03.2003 and accused, Parmod Kathuria, Gurbax Singh and Karan Kumar have been acquitted. Counsel submits that the petitioner is prepared to surrender and join the proceedings subject to any reasonable condition/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 State-respondent. He has opposed the petition by submitting that the petitioner has been declared as a proclaimed offender in number of cases. He submits that the petitioner has been evading the process of law and the prayer made in the petition deserves to be declined.

5. Countering his submission, counsel for the petitioner has made a reference to order dated 18.08.2023, Annexure P-5, as well as 25.08.2023, Annexure P-8, to submit that by way of interim orders, petitioner has been directed to appear before the trial Court and has been granted interim protection.
6. I have heard counsel for the parties and considered their respective submissions.
7. Undisputedly, the offence qua co-accused has been compounded and they have been acquitted. Although, petitioner was declared a proclaimed offender two decade back as he was remiss in joining the proceedings, but noticing the subsequent developments, this Court is of the view that he deserves to be given an opportunity to surrender.
8. In view of the above, petition is disposed of with a direction that in case the petitioner surrenders before the Investigating Officer/Trial Court within in a period of one month and moves an appropriate application, he shall be released on bail on furnishing bail/surety bonds to the satisfaction of the Investigating Officer/Court concerned. This shall be subject to deposit of cost of Rs.50,000/- with the Poor Patient Welfare Fund, PGIMER, Sector-12, Chandigarh, which shall be a condition precedent to his release on bail.

31.08.2023
Kamal

(SUVIR SEHGAL)
JUDGE

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