

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

CRM-M-49097-2021

Date of decision: 20th July, 2023

Harjinder Singh

...Petitioner

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. L.M. Gulati, Advocate for the petitioner.
Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.
Mr. Amit Arora, Advocate for the complainant.

AVNEESH JHINGAN, J (Oral):

1. This petition is filed seeking setting aside of order dated 8th March, 2021 whereby the petitioner has wrongly been declared proclaimed offender in case of FIR No. 289, dated 3rd November, 2018, under Section 420 of IPC, 1860, registered at Police Station City Tarn Taran, District Tarn Taran.

2. On 18th April, 2023, following order was passed:-

“Short reply dated 17.04.2023 by way of an affidavit of Jaspal Singh, PPS, Deputy Superintendent of Police, Sub-Division Tarn Taran, District Tarn Taran on behalf of the respondent-State has been filed today in the Court and the same is taken on record. A copy thereof has been supplied to the counsel opposite.

Learned counsel for the petitioner submits that this is the petition for quashing of the impugned order dated 08.03.2021 (Annexure P-3) passed by the learned Chief Judicial Magistrate, Tarn Taran, vide which the present petitioner has been wrongly declared proclaimed offender in case FIR No. 289 (Annexure P-1) dated 03.11.2018. The counsel for the petitioner further submits that petitioner could not be declared proclaimed offender in violation of the provisions of Section 82 of Cr.P.C. The petitioner was not residing at the given address. No notice was served upon him. His signatures were obtained on blank paper, which were later converted into ‘agreement to sell’. No agreement was executed by him.

Learned State counsel submits that despite efforts, the petitioner could not be arrested. Then proclamation was issued against him at the given address and he was declared proclaimed offender. The order dated 08.03.2021 cannot be set aside, unless the petitioner surrenders before the trial Court.

Heard.

Petitioner was declared proclaimed offender in violation of mandatory provision of Section 82 Cr.P.C., vide order dated 08.03.2021, so same is hereby stayed.

The petitioner can avail his remedy under Section 438 Cr.P.C. or after surrendering in the concerned Court, he can move an application for regular bail. The concerned Court shall pass the order on such application, if any, moved by the petitioner, in accordance with the law without being influenced that he was declared proclaimed offender vide order dated 08.03.2021.

List on 20.07.2023.”

3. Learned counsel for the petitioner submits that in pursuance to the directions of this Court an application for anticipatory bail was filed, which is fixed for 28th July, 2023.

4. Learned State counsel on instructions is not disputing the factual position.

5. Mr. Amit Arora, Advocate appearing on behalf of the complainant opposes the prayer.

6. Without commenting upon the merits of the case, the petition is disposed of, the interim protection granted staying the programmed offender order is extended till the application for anticipatory bail filed by the petitioner is not decided by the court concerned.

7. There is no doubt that the Court concerned considering that the petitioner was declared proclaimed offender way back in 2021 shall decide the application for anticipatory bail expeditiously without granting unwarranted adjournment to the parties.

[AVNEESH JHINGAN]
JUDGE

20th July, 2023

Parveen Sharma