

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

125

CRM-M-44179-2023
Date of decision: 04.09.2023

Dharmpreet Singh

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. V.P. Singh, Advocate for the petitioner.

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 28.01.2020, Annexure P-4, whereby the petitioner has been declared as proclaimed person in FIR No.74 dated 22.06.2017, registered under Sections 323, 341, 148 and 149 IPC at Police Station Lohian, District Jalandhar Rural.

2. Learned counsel contends that the petitioner was granted regular bail in the year 2017 and thereafter, challan was presented on 06.09.2017. He continued to appear before the trial Court for 01 year and about 08 months till 01.05.2019. The complainant was closely related to all other co-accused and the petitioner did not receive any summons and was under the impression that the matter was compromised and had gone abroad, thereafter, due to covid-19 pandemic and visa restrictions, he could not return to India. The summons of the Court were also not received by him on account of the fact that the

ancestral land in village Chak Bandala, Police Station Lohian was sold and his grand-mother and his father shifted to Guru Nanak Colony, Ward No.1, Lohian, Tehsil Shahkot. He was declared proclaimed person 28.01.2020, Annexure P-4 and on reaching India in the month of February, 2023, he came to know that the trial had already culminated wherein co-accused were released on probation by the trial Court vide judgment dated 13.04.2023. The absence of the petitioner was neither wilful nor deliberate but was on account of the reason aforesaid. Further that he is ready and willing to join the proceedings and prays for 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. Ms. Himani Arora, AAG, Punjab, 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. 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.

8. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 28.01.2020, Annexure P-4 is set aside subject to surrender by the petitioner before the trial Court on or before 15.09.2023 subject to costs of Rs.25,000/- to be deposited with Punjab and Haryana High Court Bar Association Lawyer's Family Welfare Fund, A/c No.41564846387, SBI High Court Branch. 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

