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

CRM-M-45377-2023

Date of decision: 02.11.2023

MOHD. AAMIR

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

....Respondents.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present: - Mr. Abdul Aziz, Advocate for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

Mr. Joginder Siwach, Advocate for respondent No.2.

SANJIV BERRY, J.(ORAL)

The instant petition under Section 482 Cr.P.C. has been filed seeking quashing of order dated 30.03.2022 (Annexure P-3) passed by the learned trial Court vide which the non-bailable warrants of the petitioner had been issued, and order dated 03.07.2023 (Annexure P-4) vide which proclamation warrants of the petitioner had been issued in case bearing No.CHI/290/2019 pending in the Court of learned SDJM, Malerkotla, in case FIR No.90 dated 10.10.2018 under Sections 341, 323 and 34 of IPC and offence under Section 201 of IPC added later on, registered at P.S. City-1, Malerkotla, District Sangrur (now District Malerkotla) (Annexure P-1).

2. It is submitted by learned counsel for the petitioner that in

compliance to the order passed by this Court on 13.09.2023, the petitioner has appeared in the trial Court and furnished the requisite bail bonds and as such the presence of the petitioner has been procured, therefore, the impugned orders may be set aside.

3. Learned counsel for the State has intimated that the petitioner has appeared in the trial Court and furnished the requisite bail bonds in compliance of the order dated 13.09.2023.

4. Learned counsel appearing on behalf of respondent No.2-complainant has also admitted this fact and pleaded no objection in case the impugned orders are quashed.

5. After considering the rival submissions and perusing the record and considering the fact that the petitioner after having been booked in the aforesaid FIR had received no notice after presentation of challan in Court nor is there any notice placed on record by the State. It is evident that for want of notice being duly served upon the petitioner he had not appeared in the learned trial Court leading to issuance of NBW vide impugned order dated 30.03.2022 (Annexure P-3). Subsequently when the same were returned un-served, petitioner was ordered to be served through proclamation warrants vide impugned order dated 03.07.2023 (Annexure P-4). During the course of hearing following orders were passed on 13.09.2023:-

“The present petition under Section 482 Cr.P.C. has been preferred by the petitioner seeking quashing of order dated 30.03.2022 (Annexure P-3) and also the order dated 03.07.2023 (Annexure P-4) passed by learned Sub-Divisional Judicial Magistrate, Malerkotla, whereby the petitioner was ordered to be served through non-bailable

warrants and subsequent issuance of proclamation against him.

2. It is inter alia contended by learned counsel for the petitioner that the petitioner was booked in FIR No.90 dated 10.10.2018 under Sections 341, 323, 34 of IPC (Section 201 IPC added later on) registered at Police Station City-I Malerkotla for offences which were bailable. However, after the presentation of challan in the Court, the petitioner never received any notice, due to which he could not appear in the Court. He submits that in the meanwhile, a compromise (Annexure P-5) has been effected with the complainant. He further submits that even today, the petitioner is ready to appear in the Court and face trial.

3. Notice of motion.

4. On the asking of the Court, Ms. Swati Batra, DAG Punjab accepts notice on behalf of respondent No.1-State.

5. Mr. Joginder Siwach, Advocate appears and files his power of attorney on behalf of respondent No.2 and admits the factum of compromise having been effected between the parties.

6. After considering the respective contentions and perusing the record, without commenting on the merits of the case, the petitioner is directed to surrender before the Trial Court/Duty Magistrate concerned, on or before 20.09.2023, the date already fixed before the trial Court. In that event, he is ordered to be released on interim bail on his furnishing personal/surety bonds to the satisfaction of the concerned Court. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.

7. Adjourned to 28.09.2023.

8. To be heard along with CRM-M-45459-2023”

6. Now, as per the respective statements made by learned counsel representing the petitioner, complainant as well as State, in compliance of the aforesaid order petitioner had appeared in trial Court and furnished the requisite bail bonds, continuation of the aforesaid impugned orders will serve no purpose and as a consequent the impugned orders dated 30.03.2022 (Annexure P-3) and 03.07.2023 (Annexure P-4) passed by learned Sub-Divisional Judicial Magistrate, Malerkotla, are hereby set aside.
7. Petition stands disposed of.

(SANJIV BERRY)

JUDGE

02.11.2023

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |