

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.45983 of 2023 (O&M)
DATE OF DECISION: 14th SEPTEMBER, 2023

Rupesh Dhadwal

.... Petitioner

Versus

State of Punjab and another

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Lakhwinder Singh Mann, Advocate and
Mr. Virender Partap Singh, Advocate,
for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

1. This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of impugned order dated 18.01.2023 (Annexure P-5) passed by the Judicial Magistrate Ist Class, Pathankot, vide which, the petitioner has been declared as proclaimed person in complaint bearing No.NI Act/660/2015 dated 13.10.2015.

2. Learned counsel for the petitioner submits that the impugned order had been passed without proper compliance of Section 82 of the Cr.P.C. Learned counsel submits that it is a matter of record that proclamation was issued before the expiry of mandated 30 days period. Moreover, the petitioner had been suffering from kidney disease upto 2022, therefore, he had been seeking exemption by filing application. However, lastly the petitioner has been declared as proclaimed person due to absence from the Court. He further submits that the petitioner is

willing and ready to appear, and surrender before the Trial Court. Hence, in the aforementioned facts and circumstances, the petitioner be protected against his arrest and he will appear before the trial Court.

3. Notice of motion.

4. On asking of the Court, Mr. Gurpreet Singh Sandhu, DAG, Punjab, accepts notice on behalf of the respondent-State. He submits that although the petitioner does not deserve the concession of bail because he had earlier absconded from the process of law, however, the State has no objection if the petitioner appears before the trial Court.

5. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remain present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

6. In view of the above, the order dated 18.01.2023 passed by the trial Court is quashed and the present petition is allowed, subject to the petitioner appearing before the trial Court on or before 21.09.2023. It is further directed that in case the petitioner so appears before the trial Court on or before 21.09.2023 then he shall be released on bail on his furnishing bail bonds/sureties to the satisfaction of the Trial Court/Chief Judicial Magistrate/Duty Magistrate.

14th SEPTEMBER, 2023
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

No

Whether Reportable:

Yes

No