

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

124

CRM-M-47333-2023(O&M)

Date of decision: 20.09.2023

Jeet Singh

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Shubhashish Kukreti, Advocate for the petitioner.

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 30.11.2022 passed by the Judicial Magistrate 1st Class, Phul, District Bathinda, vide which the petitioner has been declared proclaimed person in complaint bearing No.COMA-167-2021, instituted on 04.08.2021 and all subsequent proceedings arising therein.

2. Learned counsel submits that the summons were issued to the petitioner on 24.11.2021, however they remained unserved till 11.04.2022, on which date he was ordered to be summoned through arrest warrants. It was only in August, 2023 that he came to know of the complaint pending against him when the police raided his house to arrest him and immediately thereon he filed an application for anticipatory bail, which though came to be dismissed on 28.08.2023. The mandatory period of 30 days was also not completed, as the case was adjourned on 19.11.2022 for completion of the said period for the proclamation which was executed on 22.10.2022. The petitioner is a 70 year old man, belonging to the poor strata of the society and is also suffering from diabetes and is paralysed.

His absence is neither wilful nor deliberate. Further, that he is ready and willing to join the proceedings and it is prayed that one opportunity may be granted to him to surrender before the trial Court, even if the same is subject to costs. Reliance is placed on the orders of this Court in CRM-M-26831-2022, titled as **Raman Preet Kaur vs. State of Haryana and Another**, decided on 11.11.2022, CRM-M-15728-2021, dated 09.04.2021, **Davinder Singh Chawla and Another vs. State of Haryana and Another**.

3. Notice of motion.

4. Ms. Himani Arora, AAG, Punjab, appears on receipt of advance notice and opposes the prayer made on the ground that the order declaring the petitioner as proclaimed person has been validly passed.

5. In view of the nature of order which this Court proposes to pass, there is no necessity of calling upon any response from respondent No.2, as no order prejudicial to his rights is being passed.

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 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 30.11.2022 is set aside subject to surrender by the petitioner before the trial Court on or before 04.10.2023 and depositing Rs.5,000/- with the Punjab and Haryana High Court Bar Advocates' Clerks Association. 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. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

9. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

20.09.2023
Ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No