

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129

CRM-M-54170-2023 (O&M)
Date of decision: 30.10.2023

Sukhbir Singh @ Sukh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Krishan Kanha, Advocate for the petitioner.

VIKAS SURI, J. (Oral)

1. Prayer in the present petition under Section 482 Cr.P.C. is for quashing of order dated 27.10.2022 whereby proclamation was ordered to be issued against the petitioner to secure his presence.

2. Learned counsel for the petitioner submits that the petitioner was arraigned as an accused in case FIR No.86 dated 24.06.2019 under Sections 222, 223, 224, 225, 120-B of IPC, registered at PS Sirhali, District Tarn Taran. On 11.12.2019, the *challan* was filed in the Court and presence of the petitioner was sought to be secured through bailable warrants. Pursuant thereto, petitioner was never served in the present case. The proceedings of the case were impacted by Covid-19 pandemic and on resumption thereof, vide order dated 27.10.2022 while noticing that the petitioner cannot be served through ordinary manner, proclamation under Section 82 Cr.P.C. was ordered. The petitioner could

not put in appearance even after passing of the order dated 27.10.2022 for the reason that he was in custody in Central Jail, Ludhiana. However, wanting to put in appearance before the Court in the case at hand, petitioner through counsel moved an application for issuing production warrants, which plea was allowed. Learned counsel would further point out that the aforesaid fact is noticed by the learned Judicial Magistrate in order dated 07.02.2023 and accordingly, the proclamation proceedings ordered to be issued against the petitioner vide order dated 27.10.2022, were dropped. Order dated 07.02.2023 reads as thus:-

“Today the case was fixed for awaiting proclamation issued against the accused. However, Ld. Counsel for the accused Sukhvir Singh has moved an application for issuing production warrants of the accused Sukhvir Singh, who is lodged in Central Jail, Ludhiana in some other case. Let production warrants be issued for 04.03.2023. Further, proclamation proceedings issued against the accused Sukhvir Singh be dropped for the time being.”

3. Learned counsel further submits that despite production warrants having been issued on various hearings to secure the presence of the petitioner, the jail authorities did not produce the petitioner in the present case and the matter kept getting adjourned for the said purpose, as such. The proceedings before the jurisdictional Magistrate are pending for today, i.e. 30.10.2023.

4. Learned counsel for the petitioner further submits that in the meanwhile, vide order dated 21.09.2023 passed by this Court in CRM-M-17479-2023, petitioner has been granted the concession of regular bail in case FIR No.104 dated 26.06.2019, under Sections 307,

34 IPC and Section 25 of Arms Act, registered at Police Station Division No.2, Ludhiana.

5. Upon advance notice, Mr. Sarabjit Singh Cheema, DAG, Punjab, puts in appearance on behalf of respondent No.1-State and waives service.

6. Learned State counsel submits that the presence of the petitioner was last sought to be secured through production warrants vide order dated 20.09.2023. However, in view of petitioner having been released from custody pursuant to order dated 21.09.2023 passed by this Court, he ought to have surrendered before learned Magistrate in the above captioned case. Even though, as on date, no proclamation proceedings are pending against the petitioner and production warrants were first issued on the application made on his behalf, he ought to have appeared and surrendered before the concerned Judicial Magistrate today itself.

7. Heard learned counsel for the parties.

8. In view of the submissions noticed above, learned counsel for the petitioner prays for withdrawal of the present petition to enable the petitioner to surrender before the Judicial Magistrate First Class, Tarn Taran and apply for regular bail. It is further prayed that in view of the peculiar facts and circumstances in the present case noticed above, a direction be issued that the application for regular bail be taken up expeditiously.

9. Without expressing any opinion or going into the merits of the case, on the petitioner causing appearance and surrendering before the concerned Magistrate within three weeks from today and on applying

for regular bail, the Magistrate concerned shall take up the bail application within three days thereafter and decide it as expeditiously as possible, in accordance with law.

10. Dismissed as withdrawn with the aforesaid observations.

October 30, 2023
sumit.k

(VIKAS SURI)
JUDGE

Whether speaking/reasoned :	Yes / No
Whether Reportable :	Yes / No