

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

220

**CRM-M-60539-2022
Decided on : 23.02.2023**

Gurjinder Singh @ Ricky

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Vicky Sharma, Advocate
for the petitioner(s).

Mr. J.S. Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. On 23.12.2022, following order was passed:-

“Present petition is for seeking quashing of the order dated 21.01.2014, whereby, petitioner was declared as a proclaimed person by the Court of Ld. Sub-Divisional Judicial Magistrate, Phillaur, in case FIR No.154, dated 03.09.2009, under Sections 341, 325, 323, 148, 149, 506 of IPC, Police Station Phillaur, District Jalandhar.

Counsel for the petitioner submits that said order is not sustainable because it has been passed without following the conditions of Section 82(2) of Cr.PC.

Besides, counsel for the petitioner also refers to the judgment dated 04.10.2018, passed by JMIC, Phillaur, vide which, other two accused namely Mohinder Singh and Simarjit Singh, were tried by the Trial Court, have already been acquitted. Therefore, continuing with the proceedings under

Section 174-A of IPC against the petitioner would be immaterial, once the accused have been acquitted in the main case, in which petitioner has been declared as proclaimed person.

Notice of motion for 23.02.2023.

Notice re: stay as well.

*Meanwhile, if petitioner appears on or before 31.01.2023, before the trial Court, which declared him proclaimed person, he would be released on **interim-bail** subject to the satisfaction of Trial Court concerned.”*

2. Counsel for the petitioner submits that in compliance of the interim order dated 23.12.2022, petitioner appeared before the Court of Ld. Sub Divisional Judicial Magistrate, Phillaur, and has been released on interim bail vide order dated 19.01.2023. In support of his contention, counsel for the petitioner has furnished certified copy of the order dated 19.01.2023, passed by Ld. Sub Divisional Judicial Magistrate, Phillaur, in Court today, which is taken on record. Office to tag the same at appropriate place.

3. Assailing the order dated 21.01.2014, passed by Ld. Court below, impugned in the present petition, vide which the petitioner was declared as proclaimed person, learned counsel for the petitioner, referred the averments made in Para No.4 of the petition and argued that the impugned order has been passed in haste by Ld. Magistrate, which is not sustainable in law. Proclamation was issued on **24.08.2013** by granting opportunity to the petitioner to appear before Court on **23.09.2013**.

However, prior to that, publication of proclamation was done on **20.09.2013**,

which is evident from the statement of HC Paramjit. It is thus submitted that ingredients/provisions of Section 82(2) Cr.P.C. have not been complied with, thus, impugned order is liable to be set-aside on this score only.

4. On the other hand, learned State counsel while opposing the prayer and submissions made by counsel opposite, submits that no doubt other two co-accused, namely; Mohinder Singh and Simarjit Singh, were tried by trial Court, and have already been acquitted, however, the fact remained that the petitioner had evaded the process of law for a considerable period of time, and thus he has been rightly declared as a proclaimed offender after due compliance of Section 82 Cr.P.C.. Ld. State counsel further submits that such person deserves no leniency, and rather, should be dealt with sternly in accordance with law.

5. Heard.

6. It is well settled that paramount consideration of the Court is to secure presence of the accused and to speed up the trial. In the present case, in compliance with the order dated 23.12.2022, passed by this Court, the accused/petitioner has already surrendered before the Ld. Trial Court and he has also been granted interim bail.

7. It has also come on record that two other co-accused, who faced the trial, have already been acquitted by the Ld. Trial Court, vide judgment dated 01.10.2018. Therefore, continuance of proclamation proceedings against the petitioner would be a futile exercise. Rather, it would be appropriate to grant one opportunity to the petitioner to appear before the trial Court and to face trial.

8. In view of above, this **petition is allowed** and impugned order dated 21.01.2014, passed by Ld. Sub Divisional Judicial Magistrate,

Phillaur, is set aside and order dated 23.12.2022 granting interim bail is hereby made absolute.

Petitioner is directed to appear before Ld. Trial Court on all the dates fixed to face trial. Petitioner would also furnish an undertaking that he would not repeat such default and would join Court proceedings on each and every date, except with prior permission of the Court. However, this order would be subject to payment of Rs.20,000/-, as costs, which shall be deposited by petitioner with the 'Punjab and Haryana High Court Bar Association Lawyers Family Welfare Fund (Current A/c No.: 41564846387)'.

Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

February 23, 2023

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*