

2023:PHHC:078063

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-60265-2022 (O&M)
Date of Decision:-29.5.2023

Malkiat Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sunny Saggar, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks quashing of order dated 10.6.2022 (Annexure P-6) passed by learned Judicial Magistrate 1st Class, Taran Tarn vide which the petitioner has been declared a 'Proclaimed Offender' in respect of a case registered vide FIR No. 266, dated 07.11.2021, Police Station City Tarn Taran, District Tarn Taran, under Section 7 of the Prevention of Corruption Act, 1988 and Sections 18, 29, 59 of NDPS Act.
2. When the matter was taken up for hearing on 22.5.2023, it was contended by learned counsel for the petitioner that the documents, which are referred to as Exhibits P-1 and P-2 in the impugned order, are infact in the nature of arrest warrants and the report of serving official in respect of the said arrest warrants (Annexures P-9 and P-10 in the instant petition). This Court had accordingly called for a report from the Trial Court vide order dated

22.5.2023. The relevant extract from the said order dated 22.5.2023 reads as follows:

“In view of the ambiguity as noticed above i.e. some documents having been marked as Exhibits P-1 and P-2 on 22.3.2022 and thereafter another set of documents again having been marked as Exhibits P-1 and P-2 on 10.6.2022, the trial Court is directed to examine the case file and to submit a report as to which documents were marked as Exhibits P-1 and P-2 on 10.6.2022. In case any such documents have been marked as Exhibit P-1 and P-2 on 10.6.2022, a photocopy of the same be sent to this Court on or before the next date of hearing.”

3. Pursuant to aforesaid directions, report from the Trial Court has been received, which is to the following effect:

“On 10.06.2022, file was put up before learned Duty Magistrate Ms. Etu Sodhi, Judicial Magistrate, 1st Class, Tarn Taran, where statement of serving official ASI Jagjit Singh was recorded who in his statement proved the proclamation of accused HC Malkit Singh as Ex.P1 and his report as Ex.P2. In the file both the above said documents are placed but they have not been properly exhibited as Ex.P1 and Ex.P2 inadvertently. Photocopies of exhibited documents Ex.P1 to Ex.P4 in the statement of ASI Vipin Kumar Investigating Officer and documents mentioned by ASI Jagjit Singh in his statement on which exhibits have not been written are attached.”

4. A copy of the proclamation notice dated 24.3.2022 vide which the accused was required to cause appearance before the Court on 10.6.2022 and also the copy of report dated 3.5.2023 of serving official in respect of the said proclamation notice is also annexed but the same do not bear any indication to show that the said documents were formally assigned any exhibit number.
5. In view of the aforesaid position, this Court is of the opinion that the impugned order, wherein there is reference to Exhibits P-1 and P-2, which are infact in the nature of warrants of arrest and the report of the said arrest

warrants, cannot hold ground. As such, the instant petition merits acceptance and is hereby accepted. The impugned order dated 10.6.2022 is hereby set aside. The Trial Court is directed to record the statement of serving official afresh and to pass appropriate order with regard to the proclamation in accordance with law expeditiously.

29.5.2023
Pankaj

(Gurvinder Singh Gill)
Judge

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