

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

121.

CRM-M No.58947 of 2023

Date of Decision:23.11.2023

Arvinder Singh Sidhu

...Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amandeep Singh, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The petitioner has approached this Court under Section 482 Cr.P.C. seeking quashing of impugned order dated 08.11.2023 passed by the learned Judge, Special Court, Ludhiana in FIR No.35 dated 03.02.2018 registered under Section 21 of the NDPS Act, 1985 at Police Station Daresi, Ludhiana whereby the petitioner has been declared proclaimed person.

2. Learned counsel appearing for the petitioner, *inter alia*, contends that the aforesaid FIR was registered against the petitioner in which he has been declared proclaimed person. It is further contended that another FIR No.103 dated 17.07.2023 under Section 21 of the NDPS Act, 1985 was registered against the petitioner at Police Station Meharban, District Ludhiana in which was arrested and put behind bars. As such, he could not appear before the learned trial Court. It is further contended that absence of the petitioner was neither intentional nor willful but due to the aforesaid *bona fide* reason. He is

ready and willing to join proceedings before the trial Court and undertakes to appear on each and every date.

3. Per contra, Ms. Navreet Kaur Barnala, AAG, Punjab, who appears on advance notice, supports the impugned order passed by the trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and therefore, having left with no other option, proclamation was issued to secure his presence. When the petitioner did not turn up despite execution of proclamation, he was declared a proclaimed person.

4. I have heard learned counsel for the parties and perused the record of the case with their able assistance. With the consent of counsel appearing for the parties, the case is taken up for final disposal.

5. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

6. Admittedly, FIR No.103 dated 17.07.2023 was registered against the petitioner in which he was arrested and remained behind bars. A perusal of the impugned order dated 08.11.2023 indicates that the proclamation under Section 82 Cr.P.C. was published against the petitioner on 06.10.2023. The absence of the petitioner as pleaded by him was due to his incarceration in some other case, which was subsequently registered against him and therefore, his absence was *bona fide* and not deliberate or willful. Moreover, the petitioner is ready to

join the proceedings and further undertakes to attend court proceedings on each and every date.

7. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

8. In view of the aforesaid facts and circumstances, the impugned order dated 08.11.2023 vide which the petitioner was declared proclaimed person is set aside. The petitioner is directed to appear before the trial Court on or before 04.12.2023 and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of ₹10,000/- to be deposited with the District Legal Services Authority, Ludhiana for wasting precious time of the Court.

9. The instant petition is disposed of in above terms.

(HARPREET SINGH BRAR)
JUDGE

November 23, 2023
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No