

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

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CRM-M-54132-2019 (O&M)

Date of decision: 25.04.2023

VIJAY KUMAR

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Tanveer Singh, Advocate for
Mr. Rahul Bhargava, Advocate for the petitioner

Mr. H.S. Sullar, Sr. DAG Punjab

AMAN CHAUDHARY. J.

1. Present petition has been filed under Section 482 Cr.P.C. seeking quashing of order dated 29.10.2018, Annexure P-7 passed by learned Chief Judicial Magistrate, Amritsar whereby petitioner was declared as proclaimed person in FIR No.427 dated 28.08.2017, Annexure P/1 under Sections 379, 34 IPC; Section 25 of Arms Act registered at Police Station Civil Lines, Amritsar in which challan was presented under Sections 379-B, 201, 379-B(2), 34 IPC and Sections 25, 27, 54 of Arms Act and all subsequent proceedings arising therefrom.

2. Learned counsel submits that the petitioner was not named in the FIR. It is on account of a disclosure statement made by co-accused in Police custody that his name had surfaced, whereafter he had filed a petition for anticipatory bail and was granted interim bail vide order dated 29.04.2019, Annexure P-3, by learned Additional Sessions Judge, Amritsar, however, the same was dismissed vide order dated 10.05.2019, Annexure P-4 on account of the fact that the petitioner had not joined the investigation. Thereafter, he filed CRM-M-35225-2019 before this Court seeking grant of anticipatory bail, wherein, the

learned State counsel had apprised that he was declared proclaimed person (wrongly stated as proclaimed offender) on 29.10.2018, to which learned counsel for the petitioner had shown his ignorance and had rather stated that he had been granted interim anticipatory bail by the trial Court to join investigation on 29.04.2019. The said petition came to be withdrawn vide order dated 30.10.2019, Annexure P-6.

3. It is his submission that the petitioner was declared proclaimed person without effecting any service upon him and that he had not wilfully or deliberately concealed himself, which is evident from the fact that he himself had filed anticipatory bail, wherein interim bail was granted, which was dismissed not on the ground that he had been declared PO. He further submits that during the interregnum, the other co-accused namely Ravi Kumar and Nirmal Singh have already been acquitted by the learned Additional Sessions Judge, Amritsar vide judgment dated 17.02.2020. To buttress his submission, he places reliance on the judgments of this Court in **Gurbir Singh Mundi vs. State of Punjab and another** CRM-M-49283-2021, decided on 16.12.2021.

4. Learned State counsel states that the impugned order is legal and valid and has been rightly passed by the learned Court on account of non-appearance of the petitioner.

5. Heard.

6. The very purpose of issuance of non-bailable warrants, is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

7. Adverting to the facts of the present case that the explanation of absence appears to be justified. However, it is incumbent upon him to join the

proceedings, before the trial Court, for the culmination of the same. Considering the fact that the absence of the petitioner being not willful or deliberate and 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 expediting the trial. Thus, in order to make the ends of justice meet and finding judgment referred to above being applicable to the instant case, the present petition deserves to be allowed.

8. In view of the facts and circumstances of this case and the judgment referred to above, the impugned order dated 29.10.2018, Annexure P-7 is set aside subject to the petitioner surrendering before the trial Court on or before 09.05.2023 and depositing of Rs.10,000/- with the District Bar Association, Amritsar and furnish his fresh bail/surety bonds. On so doing, the trial Court shall release him on bail. He is also directed to furnish an undertaking by way of his affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall also surrender his passport and will not leave the country without prior permission of the Court or 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.

(AMAN CHAUDHARY)
JUDGE

25.04.2023

S.Sharma(syr)

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No