

S. No.119

2023:PHHC:157019

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61576 of 2023

Date of Decision:08.12.2023

Gurbax Kaur

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ajiteshwar Singh, Advocate for the petitioner.

DEEPAK GUPTA, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., petitioner prays for quashing of order dated 26.09.2019 (Annexure P.12), whereby petitioner was declared proclaimed person by the Court of learned Judicial Magistrate Ist Class, Jalandhar in Complaint Case No.68 of 2016 dated 01.03.2016 titled "Jagir Singh Vs. Rajdeep Kaur and others".

2. Learned counsel for the petitioner pointed out towards the report on the summons as per which petitioner was living abroad when the summoning order was issued. No effort was ever made to serve the petitioner at the address of abroad and proclamation was effected in India and then petitioner was declared proclaimed person. Learned counsel further contends that the petitioner had earlier applied for the similar benefit by filing CRM-M-19598 of 2022 in which following order was passed by a co-ordinate Bench:-

"Learned counsel for the petitioner submits that the limited prayer for which the petitioner has come up before this Court is for quashing of order dated 26.09.2019 whereby she has been declared P.O on the ground that she has immigrated to Canada. She has submitted that she is absolutely willing to attend

the trial and she only needs time because of her age constraints and Covid-19 pandemic.

It is a complaint case and the petitioner has been declared as a proclaimed offender for non-appearance.

Learned legal Aid Counsel submits that considering the age of the petitioner to be 82 years, the respondent cannot have any objection qua the limited relief which this Court is giving.

Given the petitioner's age is 82 years, the present petition is allowed to the extent that the petitioner shall appear before the concerned Court latest by 23.12.2022 and no coercive steps shall be taken against her till that date.

It is clarified that the day on which the petitioner shall appear, she shall be at liberty to file an application for bail and the concerned Court shall decide the said bail on the same date most sympathetically. The petitioner is also directed to pay compensation of Rs. 10,000/- of the complainant on the date of appearance.

Learned legal Aid Counsel will be entitled to her fee as per rules.

In case for any pressing reasons, petitioner is unable to come to India and appear, it shall be permissible to file an application seeking extension of time granted.

It is further clarified that in case any look out notice/look out circular has been issued against the petitioner, it shall be permissible for the petitioner to seek its stay by filing a separate petition before this Court.

There would be no need for a certified copy of this order, and any Advocate for the Petitioner and State can download this order and other particulars as may be required, from the official web page of this Court, and attest it to be a true copy. The concerned court can also verify its authenticity and may download and use the downloaded copy for immediate use."

3. Learned counsel for the petitioner contends that due to her old age and ill health, petitioner could not come to India so as to make compliance of the order dated 06.09.2022 (Annexure P.15). However, now the petitioner has booked her air ticket for India and she is expected to reach India by 09.12.2023 as per Annexure P.18. Learned counsel further contends that petitioner be given liberty to approach the Court concerned for surrender and getting bail in compliance of

the order dated 06.09.2022 (Annexure P.15) since matter has already been compromised amongst the parties.

Notice of motion.

Mr. P.S. Pandher, AAG, Punjab, accepts notice on behalf of the respondent- State. Ms. Arzoo Modi, Advocate, accepts notice on behalf of respondent No.2 and filed her Memo of Appearance.

Learned counsel appearing for respondent No.2 does not dispute the fact that the matter has since been compromised between the parties. She has no objection in allowing the petitioner to surrender before the trial Court.

Having regard to the afore-said facts and circumstances of the case, and considering the old age and ill health of the petitioner, she is permitted to surrender before the trial Court on or before 23.12.2023. On her such appearance, she will move application for bail and the concerned Court shall decide the same sympathetically on the same date. Petitioner shall also make compliance of the order dated 06.09.2022 (Annexure P.15) by paying compensation of ₹10,000/- to the complainant on the date of appearance. At the same time, as petitioner had failed to make compliance of the order dated 06.09.2022 passed by this Court, therefore, another amount of ₹25,000/- shall be deposited by her in the funds of High Court Legal Services Authority, Chandigarh.

It is also clarified that till the surrender of the petitioner before the trial Court, she shall not be arrested. If on account of petitioner having been declared as proclaimed person, she is sought to be arrested, she shall be admitted to interim bail to the satisfaction of Arresting Officer.

Disposed of.

Copy of the order be given dasti under the signatures of the Bench Secretary.

December 08, 2023
renu

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No