

CRM-M No.63007 of 2023 (O&M)

2023:PHHC:163871

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

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CRM-M No.63007 of 2023 (O&M)

Date of Decision: 20.12.2023

KAMAL**.....Petitioner****Vs****STATE OF PUNJAB AND ANOTHER****....Respondents****CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

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

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition under Section 482 Cr.P.C., prayer has been made for quashing of order dated 18.07.2023 (Annexure P-3) passed by the Chief Judicial Magistrate, Faridkot, whereby the petitioner was declared as proclaimed person in the proceedings arising out of FIR No.146 dated 02.07.2019 registered under Sections 323, 324, 148, 149 IPC at P.S. City Faridkot, District Faridkot.

[2]. In the present case, vide order dated 06.06.2023 passed by the Chief Judicial Magistrate, Faridkot, proclamation under Section 82 Cr.P.C. was ordered to be issued against the petitioner as well as his co-accused Banty for 04.07.2023. On the date fixed i.e. 04.07.2023 accused Banty appeared through counsel, however, on account of absence of petitioner, proclamation against him continued for 18.07.2023 and on the said date on account of his non-appearance, he was declared as proclaimed person. Orders dated 06.06.2023 and 04.07.2023 passed by the Trial Court are reproduced hereasunder:-

“Present: Sh. Satnam Singh, APP for the State.

*Accused Rahul Kumar and Beeru and Aman Kumar on bail
represented by Sh. P. S. Atwal, Advocate.*

Accused Rohit Kumar in custody (not produced)

Accused Sonu, Kamal and Banty absent.

*Accused Rohit Kumar not produced by the jail authorities. His
production warrants be issued for 20.06.2023.*

*Proclamation issued against the accused Kamal and Banty not
received back. Fresh proclamation under Section 82 Cr.P.C of accused
Kamal and Banty be issued for 04.07.2023.*

*Notice to serving official be issued for 04.07.2023 regarding
proclamation of accused Sonu.*

Dated: 06.06.2023

Geetu

(Lavdeep Hundal)

CJM/ Faridkot

(UID:PB0309)”

“Present: Sh. Satnam Singh, APP for the State.

*Accused Rahul Kumar, Beeru and Aman Kumar on bail with
counsel Sh. P. S. Atwal, Advocate.*

Accused Rohit Kumar in custody (produced through VC)

Accused Banty in person with counsel Sh. P. S. Atwal, Advocate.

Accused Sonu and Kamal absent

*Accused Banty appeared in person and an application has
been moved for surrendering the accused/petitioner and for releasing on
bail, till the decision of the case.*

*Keeping in view the fact that the accused has himself
surrender in the Court and keeping in view the offence which has been
levelled against the accused, he is granted the concession of bail subject to
furnishing of fresh bonds in the sum of Rs.50,000/- with one surety in the
like amount.*

Requisite bond furnished, which is accepted and attested.

*Accused Rohit Kumar produced by the jail authorities
through video-conference. He be again produced on 18.07.2023.*

*Proclamation under Section 82 Cr.P.C of accused Kamal be
issued for the date fixed.*

*Notice to serving official be issued for 18.07.2023 regarding
proclamation of accused Sonu.*

Dated: 04.07.2023

Geetu

(Lavdeep Hundal)

CJM/ Faridkot

(UID:PB0309)”

[3]. While referring to the aforesaid orders dated 06.06.2023 and 04.07.2023, learned counsel for the petitioner submits that the proclamation under Section 82 Cr.P.C. was never issued in consonance with the mandate of the statute as no clear period of 30 days was afforded to the petitioner for appearing before the Trial Court.

[4]. Notice of motion.

[5]. On asking of the Court, Mr. Anmol Singh Sandhu, Asstt. A.G., Punjab accepts notice on behalf of respondent No.1 and Mr. Kulwinder Singh, Advocate appears on behalf of respondent No.2.

[6]. The prayer made on behalf of the petitioner has been vehemently opposed at the instance of learned State counsel while submitting that despite having knowledge of pendency of proceedings against him, petitioner chose not to submit himself to the jurisdiction of the Court and, thus, order dated 18.07.2023 passed by the Chief Judicial Magistrate, Faridkot warrants no interference.

[7]. Learned counsel representing respondent No.2 though submits that a settlement has been arrived at between the parties and the complainant has no objection in case order dated 18.07.2023 passed by the Chief Judicial Magistrate, Faridkot is set aside.

[8]. I have heard learned counsel for the parties and gone through the paper book.

[9]. Perusal of orders dated 06.06.2023 and 04.07.2023 shows that proclamation was issued though initially ordered on 06.06.2023 for 04.07.2023, whereas on 04.07.2023, the petitioner did not appear and the matter was adjourned for 18.07.2023; on the said date on account of non-appearance of the petitioner, he was declared as proclaimed person.

[10]. Cumulative effect of orders dated 06.06.2023 and 04.07.2023 shows that no clear period of 30 days was afforded to the petitioner in pursuance of proclamation effected in exercise of powers under Section 82 Cr.P.C. Even in the impugned order dated 18.07.2023, it has been nowhere mentioned as on which date the proclamation was effect.

[11]. In this view of the matter, the proceedings having carried out against the petitioner in utter violation of Section 82 Cr.P.C. vide order dated 18.07.2023 passed by the Chief Judicial Magistrate, Faridkot the same is hereby quashed. Petitioner is accordingly directed to appear before the Trial Court within a period of 15 days from today and apply for his bail/anticipatory bail. Till then, no coercive steps be taken against him.

[12]. In view of above, the petition stands disposed of.

December 20, 2023	(HARKESH MANUJA)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No