

S. No.116

2024:PHHC:048086

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

CRM-M-5109 of 2024 (O&M)

Date of Decision:09.04.2024

Gagandeep Singh

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Nitin Narula, Advocate for the applicant- petitioner.

DEEPAK GUPTA, J. (Oral)

CRM No.14199 of 2024

This is an application moved by the applicant-petitioner under Section 482 Cr.P.C to place on record copy of the order dated 12.02.2021 (Annexure P.5) whereby the petitioner was granted regular bail besides copies of the zimni orders (Annexure P.6 colly) passed by the Court concerned, till he was declared as a Proclaimed Offender.

Application is allowed. Annexures P.5 and P.6 are taken on record.

CRM-M-5109 of 2024

By way of present petition filed under Section 482 Cr.P.C., petitioner prays for quashing the order dated 18.07.2023 (Annexure P.3) passed by learned Judicial Magistrate Ist Class, Ludhiana, whereby the petitioner was declared Proclaimed Offender during proceedings of the case arising out of FIR No.143 dated 07.07.2013 registered at Police Station Division No.7 (Vardhman), District Ludhiana under Sections 420 and 120-B IPC.

Perusal of the paper book would reveal that petitioner was earlier declared Proclaimed Offender on 28.03.2019, as is evident from the order dated 12.02.2021 (Annexure P.5) passed by learned Additional Sessions Judge,

Ludhiana. He was then allowed regular bail vide order dated 12.02.2021 (Anexure P.5). Even thereafter petitioner did not join the proceedings before the trial Court. Repeated notices were sent to him. Ultimately, his bail was cancelled and bonds were forfeited vide order dated 09.12.2022 (Part of Annexure P.6). Repeated warrants of arrest were issued against him which remained unexecuted. Then proclamation under Section 82 Cr.P.C was issued vide order dated 17.03.2023 for 29.04.2023. The said proclamation was duly effected but as the Serving Constable had not appeared before the Court, so the matter was adjourned to 20.05.2023. Ultimately, after recording the statement of Serving Constable, the petitioner was declared as Proclaimed Offender vide impugned order dated 18.07.2023 and direction was given to the SHO concerned for registering the FIR under Section 174-A IPC.

Learned counsel for the petitioner contends that compromise has been effected between the parties due to which petitioner could not appear. Apart from above, it is also pointed out that there was no proclamation for 18.07.2023, when the petitioner was declared Proclaimed Offender.

Notice of motion.

Mr. Sahil R. Bakshi, AAG, Punjab, accepts notice on behalf of the respondent- State. Mr. Sandeep Sharma, Advocate accepts notice on behalf of respondent No.2.

As will be evident from the record that the proclamation had been issued for 29.04.2023 but on that date, petitioner was not declared Proclaimed Offender because of the reason that Serving Constable had not appeared for

making the statement. Petitioner was ultimately declared Proclaimed Offender on 18.07.2023 despite the fact that there was no proclamation on that date. In these circumstances, there is a clear violation of Section 82 Cr.P.C and so the impugned order dated 18.07.2023 cannot be sustained and as such, the said order is hereby set aside.

At the same time, the Court cannot ignore the conduct of the petitioner. As noticed earlier, he was previously declared Proclaimed Offender on 28.03.2019 and was allowed bail on 12.02.2021. He again absented himself and then was declared as Proclaimed Offender.

Having regard to the afore-said circumstances, though because of the illegality of the impugned order, the same is set aside and this petition is accepted but it is subject to ₹25,000/- as cost to be deposited by the petitioner with Secretary, District Legal Services Authority, Ludhiana.

April 09, 2024
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(DEEPAK GUPTA)
JUDGE

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