

CRM-M-6057-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6057-2023 (O& M)
Date of decision: 05.03.2024

Raj Singh @ Raja Petitioner(s)
V/s
State of Punjab ...Respondent(s)

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gurpreet Singh, Advocate,
for Mr. Ramnish Puri, Advocate,
for the petitioner.

Mr. Mohit Saroha, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 Cr.P.C. is for the quashing of the order dated 15.11.2021 (Annexure P-4) vide which the bail order of the petitioner was cancelled and he was summoned through non-bailable warrants as well as the impugned order dated 07.10.2022 (Annexure P-5) passed by the Additional Sessions Judge, Amritsar, vide which the petitioner was declared a proclaimed person in FIR No. 30 dated 19.02.2020 under Section 22 of the NDPS Act, Police Station Mohkampura, District Amritsar.

2. The brief facts of the case are that the petitioner and his co-accused Vishal Singh @ Shaal @ Shalu came to be apprehended with 310 and 3170 intoxicating tablets respectively.

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3. The petitioner was granted the concession of interim bail on 28.04.2020 (Annexure P-2).

4. The investigation report was submitted under Section 173 Cr.P.C. on 08.07.2021.

5. However, as the petitioner did not appear before the Trial Court on 15.11.2021, non-bailable warrants were issued against him vide order dated 15.11.2021 (Annexure P-4). Thereafter, after following the procedure envisaged under Section 82 Cr.P.C., he was declared a proclaimed person vide order dated 07.10.2022 (Annexure P-5).

6. The aforementioned orders dated 15.11.2021 and 07.10.2022 (Annexures P-4 and P-5 respectively) are under challenge in the present petition.

7. The learned counsel for the petitioner contends that the petitioner had been regularly appearing before the Trial Court. It was only on one date i.e. 15.11.2021 that the petitioner could not appear as he had noted down a wrong date because of which the order dated 15.11.2021 (Annexure P-4) came to be passed. Based on the said order, the petitioner was declared a proclaimed person on 07.10.2022 (Annexure P-5). In fact, the non-appearance of the petitioner was neither deliberate nor intentional and he had been declared a proclaimed person without complying with the provisions of Section 82 Cr.P.C. He, therefore, contends that the impugned orders (Annexures P-4 and P-5) were liable to be quashed.

8. The learned counsel for the State, on the other hand, has filed a reply dated 05.03.2024 which is taken on record. While referring to the said reply, he has enumerated various steps taken by the investigating agency to

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procure the presence of the petitioner who is admittedly absconding. He has also referred to FIR No. 212 dated 26.10.2020 under Sections 336, 323, 160, 427, 148 and 149 IPC and Section 25 of the Arms Act, Police Station Mohkampura, Amritsar wherein the petitioner was declared a proclaimed offender on 30.05.2022. It is his contention that as the petitioner was aware of the FIR in which he had been declared a proclaimed offender, it did not lie in his mouth to say that the proper procedure had not been followed. In fact, his conduct itself was reprehensible as he was not only the proclaimed offender in the present case, but was also declared one in FIR No.212 dated 26.10.2020. He, therefore, contends that the present petition was liable to be dismissed.

9. I have heard the learned counsel for the parties.

10. Admittedly, the petitioner was arrested with contraband and thereafter, granted the concession of bail. He was well aware of the fact that the FIR No. 30 dated 19.02.2020 under Section 22 of the NDPS Act, Police Station Mohkampura, Amritsar was pending against him. Even if it could be said that his non-appearance on 15.11.2021 was neither intentional nor deliberate, his subsequent non-appearance thereafter clearly establishes that he has evaded the process of law. In fact, the order dated 15.11.2021 (Annexure P-4) culminated in the subsequent order declaring him a proclaimed person only on 07.10.2022 (Annexure P-5) and therefore, he had ample opportunity to either put in appearance or approach the Court concerned for appropriate relief. The instant petition itself was filed only in January 2023. Further, not only is the petitioner a proclaimed person in the instant FIR, he is also a proclaimed offender in FIR No. 212 dated

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26.10.2020 under Sections 336, 323, 160, 427, 148 and 149 IPC and Section 25 of the Arms Act, Police Station Mohkampura, Amristar

11. Thus, the petitioner is not only a habitual offender but has willfully evaded the process of law.

12. In view of the above discussion, I find no merit in the present petition and the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

March 05, 2024
sukhpreet

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No