

CRM-M-6091-2024

146 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6091-2024

Date of Decision: 05.02.2024

Munish Sharma @ Manish Sharma

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ashish Gupta, Advocate,
for the petitioner.

HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing the order dated 18.11.2022 (Annexure P-5) passed by learned Trial Court, whereby the bail of the petitioner was cancelled, besides, forfeiture of bail/surety bonds, followed by issuance of non-bailable warrants against him as well as for setting aside the order dated 30.01.2023, declaring the petitioner as proclaimed person.

2. Having been implicated in FIR No.126, dated 03.05.2015, under Sections 279, 337 and 338 IPC, registered at Police Station Baldev Nagar Ambala, the petitioner was admitted to bail and continued appearing regularly before the Trial Court, but for 18.11.2022, when he could not appear on account of non-bailable warrants issued against him by some other Court, vide order dated 27.10.2022, in the execution proceedings filed at the instance of his wife, resulting into cancellation of bail and forfeiture of bail bonds/surety bonds followed by issuance of non-bailable warrants against him vide order dated 18.11.2022. Thereafter, the petitioner was declared as

proclaimed person vide order dated 30.01.2023.

3. Impugning the aforesaid orders dated 18.11.2022 and 30.01.2023, learned counsel for the petitioner submits that the non-appearance of the petitioner on 18.11.2022 was on account of issuance of non-bailable warrants against him by the Executing Court, vide order dated 27.10.2022 arising out of an execution petition filed at the instance of his wife, which was later withdrawn on 23.11.2022 and thereafter, the petitioner applied for grant of anticipatory bail in the present FIR, however, the same was declined vide order dated 25.01.2024 (Annexure P-12).

Further, learned counsel for the petitioner submits that the order dated 30.01.2023, declaring the petitioner as proclaimed person was in violation of Section 82 Cr.P.C. and thus, the same was liable to be set aside. He places reliance upon the judgment of this Court passed in **CRM-M-24806-2024**, titled as **“Jagmal Singh and others vs. State of Haryana and others”**, decided on 28.10.2014.

4. Notice of motion.

5. Mr. Chetan Sharma, DAG, Haryana, who is present in Court accepts notice on behalf of the respondent-State and opposes the prayer while submitting that the non-appearance of the petitioner before the Trial Court was never bona fide as the same was purely to delay the proceedings pending in the trial.

Learned State counsel further submits that the petitioner was declared as proclaimed person after following the mandate of Section 82 Cr.P.C. and thus, the order dated 30.01.2023 warrants no interference.

6. I have heard learned counsel for the parties and gone through the

paper book. I find substance in the submission made on behalf of the petitioner.

7. A perusal of form of proclamation dated 10.12.2022 shows that it was nowhere prescribed therein that in case of default in appearance, the petitioner would be declared as proclaimed offender/person.

Once, form of proclamation never prescribed that in case of default in appearance, the petitioner would be declared as proclaimed offender/person, the same cannot be said to be strict compliance of Section 82 Cr.P.C.. Resultantly, the order dated 30.01.2023 is set aside. As regards the non-appearance of the petitioner on 18.11.2022, the cause put forth by the petitioner appears to be reasonable and thus the same as well is set aside.

8. Accordingly, the petition is allowed. The aforementioned two orders are set aside. The petitioner is directed to appear before the Trial Court within a week from today and furnish his fresh bail/surety bonds, which shall be accepted, subject to verification. Till then, no coercive steps be taken against the petitioner.

05.02.2024

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(HARKESH MANUJA)

JUDGE

Whether speaking/reasoned: yes/no

Whether reportable? yes/no