

CRM-M-9332-2021

259 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9332-2021

Decided on:-22.02.2024

Amninder Singh @ Saabi

...Petitioner.

Vs.

State of Punjab

...Respondent..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. M.S. Chauhan, Advocate for the petitioner.

Mr. Siddharth Sandhu, AAG, Punjab.

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 30.07.2018 (Annexure P-2) passed by the Court of Judicial Magistrate Ist Class, Nakodar, whereby the petitioner was declared as proclaimed person.

2. Having been implicated as one of the accused in FIR No.169 dated 12.12.2013, registered under Section 21 of the Mines and Mineral (Development and Regulation) Act, 1957 and 379 IPC, at Police Station Mehatpur, District Jalandhar City, petitioner was initially granted the concession of anticipatory bail vide order dated 09.04.2014 and continued to appear before the Trial Court till December, 2017. Thereafter, he could not appear as he went abroad, resulting into passing of the order dated 30.07.2018, declaring him as proclaimed person.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that the proceedings were carried out against the petitioner in violation of mandate of Section 82 Cr.P.C. as no clear cut statutory period of

30 days was ever afforded to him to put in appearance in pursuance to the proclamation, which was effected on 11.07.2018 and thus, the entire proceedings were vitiated.

4. On the other hand, learned State counsel vehemently opposes the prayer made on behalf of the petitioner while submitting that the petitioner, despite having complete knowledge about the pendency of the proceedings, deliberately chose not to appear before the Court concerned with a purpose to delay the proceedings, as such, the impugned order warrants no interference.

5. I have heard learned counsel for the parties, gone through the paper book and find substance in the submissions made on behalf of the petitioner.

6. A perusal of order dated 30.07.2018 itself shows that the proclamation under Section 82 Cr.P.C. was effected on 11.07.2018 and thus, from the said date, the declaration of the petitioner as that of proclaimed person on 30.07.2018 clearly fell short of statutory period of 30 days, which is required to be granted to him, thereby violating the mandate of Section 82 Cr.P.C. and thus, the order dated 30.07.2018 is not sustainable in the eyes of law.

7. In view of the discussion made herein above, the present petition is allowed. Impugned order dated 30.07.2018 is ordered to be quashed qua the petitioner.

8. Considering the nature of allegations and the fact that the other two co-accused have been convicted and sentenced only for payment of fine of Rs.3000/- each vide judgment dated 30.07.2018 as well as the fact that the petitioner is stated to be in Canada, he is granted 06 weeks time to come

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back and surrender before the Trial Court, on his furnishing adequate bail/surety bonds to its satisfaction, however, the same shall be subject to payment of costs of Rs.1 lakh to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, within a period of 08 weeks from the date of receipt of certified copy of this order.

22.02.2024

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whether speaking/reasoned: Yes/No

whether reportable: Yes/No

(HARKESH MANUJA)
JUDGE