

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

Neutral Citation No. **2024:PHHC:034738**
CRM-M-10809-2024 (O&M)
Date of Decision: March 12, 2024

Fatehdeep Singh @ Fateh **...Petitioner**

Versus

The State of Punjab **...Respondent**

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. J.S. Jaidka, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

CRM-10351-2024

This is an application moved by the petitioner to place on record the copies of zimini orders as passed by the Trial Court as Annexures P-4 to P-21.

Notice of the application.

Mr. Sahil R. Bakshi, AAG, Punjab accepts notice on behalf of the respondent-State. Learned State counsel has no objection, considering the nature of the documents proposed to be placed on record.

Application is allowed.

Annexures P-4 to P-21 are taken on record.

Main Case

By way of present petition filed under Section 482 Cr.P.C., petitioner prays for quashing the order dated 04.11.2023 (Annexure P-2) whereby petitioner was declared proclaimed person during the proceedings of case FIR No.67 dated 28.04.2020, under Sections 435, 427, 335, 188 and 34 of IPC, registered at Police Station Dugri, District Ludhiana.

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2. Petitioner also prays for grant him an opportunity to appear before the Trial Court to put forth his defence.

3. With the help of various zimini orders as placed on record, learned counsel has pointed out that petitioner was never joined in the investigation. After filing of the challan, notice to the petitioner was directed to be issued for the first time on 06.04.2021. The notice remained unserved. The order dated 22.11.2022 (Annexure P-14) would reveal that though, co-accused Gagandeep appeared on that date, but the notice sent to Fatehdeep Singh @ Fateh (petitioner) was received with the report that he had gone abroad, as per information given by his father. Thereafter, warrants of arrest were issued, which were received back unexecuted and then proclamation under Section 82 Cr.P.C. was issued repeatedly. For the last time, proclamation was directed to be issued on 29.08.2023 for 13.10.2023. Direction was given to affix the proclamation for 12.09.2023. The report was received on 13.10.2023 that proclamation had been duly effected on 04.10.2023. Since on that day, the period of 30 days had not elapsed, so matter was adjourned to 04.11.2023 and on that date as the petitioner did not surrender, he was declared proclaimed person.

4. Learned counsel for the petitioner has rightly contended that the order dated 04.11.2023 is in utter violation of Section 82 Cr.P.C., inasmuch as, no proclamation whatsoever had been issued for 04.11.2023; whereas on 13.10.2023 for which date the proclamation was issued, the period of 30 days had not elapsed.

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5. Learned State counsel could not refute the aforesaid contention, which is based upon record.

6. In view of all the reasons as mentioned above, the impugned order dated 04.11.2023 (Annexure P-2) declaring the petitioner as proclaimed person, is hereby set aside.

The petition is disposed of accordingly.

March 12, 2024

sarita

(DEEPAK GUPTA)
JUDGE

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