

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

**CRM-M-11309-2024 (O&M)
Decided on:-04.03.2024**

Satnam SinghPetitioner..

vs.

State of PunjabRespondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ruhani Chadha, Advocate,
for the petitioner.

Mr. Siddharth Sandhu, AAG, Punjab.

HARKESH MANUJA J. (Oral)

CRM-9894-2024

Exemption application is allowed as prayed for.

Main case

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for setting aside the order dated 02.12.2023 (Annexure P-5) passed by the Court of learned Additional District & Sessions Judge, Jalandhar, whereby, the petitioner was declared as proclaimed person.
2. Having been arrayed as an accused in FIR No.272 dated 20.09.2020, registered under Section 15 of the NDPS Act, 1985, at Police Station Shahkot, District Jalandhar (Rural), petitioner was released on regular bail vide order dated 21.10.2020 passed by learned Additional District & Sessions Judge, Jalandhar.

On 09.08.2022, when the matter was fixed before the trial Court for recording of prosecution evidence, on account of non-appearance of the

petitioner, bail of the petitioner was cancelled, besides forfeiture of bail bonds/surety bonds to State as well as issuance of non-bailable warrants against him, followed by declaring him as proclaimed person in terms of order dated 02.12.2023.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that there was non-compliance of mandatory procedure laid down under Section 82 Cr.P.C. and as such, declaration of the petitioner as proclaimed person was bad in law.

4. Notice of motion.

5. Mr. Siddharth Sandhu, AAG, Punjab accepts notice on behalf of the respondent-State and vehemently opposes the prayer made herein while submitting that despite having complete knowledge about the pendency of the trial, petitioner disappeared from the proceedings and as such, does not deserve the indulgence.

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

7. On account of non-appearance of the petitioner, vide order dated 22.05.2023, the proclamation under Section 82 Cr.P.C. was ordered against him for 08.09.2023 as the date of appearance. The proclamation was effected on 27.08.2023 and as such, 30 days period had not elapsed. The matter was adjourned by the trial Court for 03.10.2023, awaiting the presence of the petitioner, followed by declaring him as proclaimed person vide order dated 02.12.2023 on account of his non-appearance.

Once in the proclamation, the date of appearance was mentioned as 03.10.2023 with no proclamation ordered for 02.12.2023 being

the date for appearance, the declaration of petitioner as proclaimed person vide order dated 02.12.2023 was wholly vitiated.

In terms of Section 82 Cr.P.C., petitioner could have been declared as proclaimed person on account of his non-appearance for the date fixed in the proclamation itself and not on any other subsequent date.

8. Resultantly, the petition is allowed and the impugned order dated 02.12.2023 declaring the petitioner as proclaimed person, is hereby set aside.

9. The petitioner is directed to appear before the trial Court on or before the date fixed and in case, he moves an application for grant of regular bail, the same may be disposed of within a period of 02 days thereafter.

10. The aforesaid order is subject to payment of costs of Rs.5,000/- to be deposited with the District Legal Services Authority, Jalandhar, Punjab, within a period of two weeks from today.

04.03.2024
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(HARKESH MANUJA)
JUDGE

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