

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

Neutral Citation No. **2024:PHHC:034730**
CRM-M-12278-2024
Date of Decision: March 12, 2024

Sukhraj Singh @ Sukha

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Jaspreet Singh Brar, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

By way of this petition filed under Section 482 Cr.P.C., petitioner prays to quash/set aside the order dated 29.05.2023 (Annexure P-5) passed by learned Chief Judicial Magistrate, Moga in a case arising out of FIR No.0272 dated 29.11.2019, under Sections 279, 337, 338 of IPC, registered at Police Station City Moga, District Moga, whereby he was declared proclaimed person.

2. Notice of motion.

3. Mr. Sahil R. Bakshi, AAG, Punjab accepts notice on behalf of respondent-State.

4. As apparent from the perusal of the paper book, petitioner had been earlier declared proclaimed person in the same FIR on 03.03.2022. That order was challenged by the petitioner by filing CRM-M-22024-2022. A co-ordinate Bench of this Court issued notice of motion and directed to petitioner to surrender before the Trial Court and admitted him to interim bail.

5. Despite the aforesaid order, the petitioner again absented from the trial on 27.03.2023. His application seeking exemption was

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declined. His bail was cancelled; warrants of arrest failed to procure his presence. Proclamation under Section 82 Cr.P.C. was directed to be issued on 19.04.2023 for 01.05.2023. The said proclamation was received back duly effected on 24.04.2023, as per order dated 01.05.2023 and since the period of 30 days was not elapsed, the matter was adjourned to 29.05.2023 and on that day, petitioner was declared proclaimed person.

6. Conduct of the petitioner does not warrant any relief in his favour. However, at the same time this Court notices that the impugned order is *prima facie* in violation of Section 82 Cr.P.C., inasmuch as the proclamation had been issued for 01.05.2023, but the petitioner was declared proclaimed person on 29.05.2023, despite the fact that there was no proclamation for that day, i.e. 29.05.2023.

7. Taking into account all the aforesaid facts and circumstances, this petition is allowed, but subject to ₹50,000/- as cost to be deposited with the District Legal Services Authority, Moga. At the same time, petitioner is directed to surrender before the Trial Court on or before 22.03.2024. On his such appearance, the Trial Court shall initiate proceedings under Section 446 Cr.P.C. and only after disposal of those proceedings, the petitioner shall be admitted to bail.

It is made clear that the proceedings under Section 446 Cr.P.C. are in addition to the cost of ₹50,000/- as has been imposed by way of aforesaid order. Till the disposal of the proceedings under Section 446 Cr.P.C., petitioner shall not be arrested.

It is also made clear that in case, the Trial Court proceedings had been consigned in the meantime, the Trial Court will revive those proceedings and proceed further in accordance with law.

March 12, 2024
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(DEEPAK GUPTA)
JUDGE

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