

123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13474-2024
Date of decision: 15.03.2024

Ranjit Singh @ Laddu

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Bhupinder Kumar Gupta, Advocate
for the petitioner.

Mr. Subhash Godara, Addl.A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. seeking setting aside of impugned order dated 09.02.2024 (Annexure P-11) passed by the learned Judicial Magistrate 1st Class, Nakodar, District Jalandhar, in case bearing No. CHI/381/2019 titled as 'Punjab State Vs. Ranjit Singh alias Laddu etc.' arising out of FIR No.86 dated 05.08.2019 under Sections 323/341/506/149 of IPC registered at Police Station Lohian, District Jalandhar Rural, Punjab, vide which the petitioner has been declared as a proclaimed person.

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was regularly appearing before the learned trial Court, however, in the month of November, 2023, wife of the petitioner was suffering with illness and was undergoing treatment and the petitioner had to put his resources for securing best treatment for his wife. On 28.11.2023, the petitioner could not put in appearance before the learned trial Court and the trial Court

issued notice to the accused for 02.12.2023. On 02.12.2023, the learned Presiding Officer was on leave and the matter was adjourned to 21.12.2023. On 21.12.2023, the learned trial Court cancelled the bail of the petitioner and forfeited his bail bonds/surety bonds to the State followed by issuance of non-bailable warrants of arrest for 06.01.2024. On 06.01.2024, the learned trial Court secured the presence of the petitioner through proclamation. On 09.02.2024, the trial Court declared the petitioner as proclaimed person. Aggrieved by the said impugned order dated 09.02.2024 (Annexure P-11), the petitioner has approached this Court by way of instant petition.

3. Learned counsel appearing for the petitioner submits that the non-bailable warrants issued to the petitioner were never served and, therefore, the finding of the trial Court that the petitioner is intentionally evading his arrest, is erroneous. Further, the trial Court vide order dated 06.01.2024, without any cogent reason issued proclamation under Section 82 Cr.P.C. Ultimately, vide impugned order dated 09.02.2024, the petitioner has been declared as proclaimed person. It is contended that the impugned order is liable to be set aside on the ground that the mandate of Section 82 of Cr.P.C. has not been followed in its letter and spirit by the trial Court.

4. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date.

5. Notice of motion.

6. Mr. Subhash Godara, Addl.A.G., Punjab, who is present in Court, accepts notice for the respondent and supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no

other option, proclamation was issued to secure his presence.

7. I have heard learned counsel for the petitioner and perused the record of the case with his able assistance and the matter is taken up for final disposal.

8. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

9. A perusal of the impugned order reveals that the trial Court issued proclamation without recording reasons of its belief that the petitioner has absconded or is concealing himself. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality.

10. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

11. In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 09.02.2024 (Annexure P-11) vide which the petitioner was declared as proclaimed person, is hereby set

aside.

12. The petitioner is directed to appear before the trial Court within a period of 15 days from today and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Jalandhar, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

15.03.2024
Neha

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