

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

268 (A) CRM-M-12486-2019
Date of Decision:18.04.2024

Rakesh Y. DubePetitioner
Vs.
State of Haryana and anotherRespondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J.(ORAL)

By way of this petition filed under Section 482 Cr.P.C., prayer is made to quash order dated 26.02.2013 (Annexure P-10) passed during proceedings of case FIR No.219 dated 13.07.2011 registered at Police Station Model Town, Rewari under Sections 420, 406 of the IPC, whereby petitioner was declared proclaimed offender by the Court of learned Additional Chief Judicial Magistrate, Rewari and the subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner contends that accused Rajinder Shah as named in the FIR was arrested on 11.09.2011. Petitioner had applied for anticipatory bail before this Court by filing CRM-M-380-2012, which was dismissed by this Court on 06.03.2012. Learned counsel further contends that thereafter Court issued a proclamation under Section 82 Cr.P.C. against the petitioner for appearance before the Court on

27.01.2013 and that petitioner has been illegally declared proclaimed offender without providing him 30 days time to surrender.

3. Though learned State counsel has contended that petitioner is one of the main accused along with accused Rajinder Shah and that anticipatory bail earlier applied by the petitioner was dismissed by this Court but the factual position to the effect that 30 days time was not given by the Court concerned to the petitioner to surrender, could not be refuted by learned State counsel.

4. Perusal of the record would reveal that vide order dated 15.12.2012 (Annexure P-8), learned Additional Chief Judicial Magistrate, Rewari issued proclamation under Section 82 Cr.P.C. directing the appearance of the accused- petitioner in the Court on 27.01.2013. Annexure P-9 is the order dated 28.01.2013 passed by learned Additional Chief Judicial Magistrate as per which the serving constable had appeared before the Court on that day and had suffered a statement to the effect that he had effected the proclamation against the accused on 19.01.2013. Matter was adjourned to 25.02.2013. Since 25.02.2013 was declared a holiday so matter was taken on 26.02.2013 and on that day the petitioner was declared proclaimed offender as he did not surrender.

5. It is evident from the aforesaid proceedings recorded in the Court of learned Additional Chief Judicial Magistrate, Rewari that proclamation was ordered to be effected for 27.01.2013 on 15.12.2012. However, the proclamation was effected on 19.01.2013. Thus, on 27.01.2013, by which date petitioner was directed to appear/surrender before

the Court, 30 days period had not expired. Though matter was adjourned to 25.02.2013 but no proclamation was issued either for 25.02.2013; or for 26.02.2013 on which date he was declared proclaimed offender. Thus all the aforesaid proceedings as recorded by the Court of learned Additional Chief Judicial Magistrate are in utter violations of Section 82 Cr.P.C. and therefore, the impugned order dated 26.02.2013 (Annexure P-10) declaring the petitioner as proclaimed offender cannot be sustained in the eyes of law.

6. As such, the said order dated 26.02.2013 (Annexure P-10) is hereby set aside. Petitioner is hereby directed to surrender before the Trial Court concerned within a period of 15 days from today and move the appropriate application for bail. The bail application to be moved by the petitioner shall be considered by the Trial Court concerned in accordance with law.

Disposed of.

April 18, 2024

Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No