

1212024:PHHC:044714

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-14214-2024 in/and CRM-M-14830-2024
Date of Decision: April 03, 2024

DALBIR SINGH.....Petitioner

Versus

STATE OF PUNJAB.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Manoj Kumar, Advocate for the petitioner.
Mr. Kewal Singh, Addl. A.G. Punjab.

HARKESH MANUJA, J. (ORAL)

CRM-14214-2024

Allowed as prayed for, subject to all just exceptions.

MAIN CASE

By way of present petition filed under Section 482 CrPC, prayer has been made for quashing of the order dated 13.12.2023 passed by learned Judge, Special Court, Ludhiana whereby, the petitioner was declared as proclaimed offender.

2. Having been implicated as an accused in FIR No.139 dated 07.11.2013 registered under Sections 182, 420 ,465, 468, 471 and 120-B IPC & Sections 22, 28 and 29 of NDPS Act, at P.S. Daba Ludhiana, District Ludhiana, the petitioner was granted concession of anticipatory bail by this Court vide order dated 18.03.2014 followed by filing of final report by Investigating Agency after a gap of more than 5 years; i.e. on 20.08.2019. The grievance of the petitioner is that the challan was filed in absence of the petitioner and despite there being a specific report on record that the petitioner has changed his residence, without making any efforts for obtaining his fresh address, the proceedings under

CRM-14214-2024 in/and CRM-M-14830-2024

Section 82 of CrPC were initiated resulting into his declaration as proclaimed offender vide impugned order.

3. On the other hand, prayer made herein has been vehemently opposed at the instance of learned State counsel while submitting that the petitioner was fully aware of the proceedings pending against him arising out of FIR in question and he deliberately chose not to appear in the Court and as such the impugned order warrants no interference.

4. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioner.

5. A perusal of the record shows that the trial Court was conscious of the fact that the petitioner has changed his address/residence in due course of time, however, yet without making any effort to ascertain the fresh address of the petitioner, proceedings under Section 82 of CrPC were initiated against him. Still further, a perusal of the record shows that the proclamation under Section 82 of CrPC was ordered against the petitioner on 06.11.2023 for 05.12.2023 being the date for his appearance which clearly fell short of the statutory period of 30 days as contemplated under Section 82 of CrPC. Furthermore, the order dated 05.12.2023 (Annexure P-37 page 67) passed by the trial Court shows that even as per the statement of the executant-police officer, the proclamation was never read out in public place as enjoined under Section 82(2)(i)(a) of the CrPC. Moreover, the

CRM-14214-2024 in/and CRM-M-14830-2024

petitioner was declared as proclaimed offender vide order dated 13.12.2023 whereas for the said date, there was no proclamation ever issued against the petitioner requiring him to appear before the trial Court and thus, the entire proceedings carried out against him as far as his declaration as that of proclaimed offender were in total violation of the mandate of Section 82 of CrPC.

6. Resultantly, the present petition is allowed and the order dated 13.12.2023 is set aside. The petitioner is granted liberty to surrender himself before the trial Court within a period of 7 days from today and furnish his bail bonds/surety bonds subject to the satisfaction of the Court concerned. In the meanwhile, no coercive steps shall be taken against the petitioner.

7. The aforesaid order shall however be subject to payments of costs of Rs.5,000 /- to be deposited with Poor Patients’ Welfare Fund, PGIMER, Chandigarh.

03.04.2024

Tejwinder

(HARKESH MANUJA)

JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No

