

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

Neutral Citation No. **2024:PHHC:042268**
CRM-M-15318-2024
Date of Decision: March 22, 2024

Nirvair Singh @ Narvair Singh and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Narender Singh Kamboj, Advocate for the petitioners.

DEEPAK GUPTA, J.(Oral)

By way of present petition under Section 482 Cr.P.C., petitioners pray to set aside the order dated 07.07.2023 (Annexure P-11) and the subsequent proceedings, whereby petitioners have been declared proclaimed persons in case titled as “*State v. Nirvair Singh and others*”, arising out of FIR No.163 dated 11.08.2020, under Sections 324, 323, 427, 188, 148 and 149 of IPC, registered at Police Station City Kotakpura, District Faridkot.

2. A perusal of paper book would reveal that two petitioners Nirvair Singh @ Narvair Singh and Sikander Singh @ Harfool Singh alongwith co-accused Pargat Singh had appeared before the Trial Court on 10.05.2021 and were released on bail. They absented on the next date of hearing, i.e. 03.08.2021. Repeated notices were sent to them. Both the petitioners were duly served through their brother as evident from Annexure P-6. Still, they did not appear and so bailable warrants were directed to be issued against them. Said warrants failed to procure their presence and so warrants of arrest were issued and ultimately after recording its satisfaction that despite having knowledge of pendency of the case, petitioners were

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evading the service, their bail was cancelled and proclamation under Section 82 Cr.P.C. was directed to be issued against the petitioners vide order dated 27.03.2023 for 25.05.2023. On 25.05.2023, though proclamation was received back duly effected, but the Court noticed that statutory period had not elapsed and so matter was adjourned to 07.07.2023 for awaiting the appearance of the petitioners. Petitioners as well as co-accused still failed to appear on the adjourned date of 07.07.2023 and so they were declared proclaimed persons, on that day.

3. It has been rightly contended by learned counsel for the petitioners that order dated 07.07.2023, whereby petitioners have been declared proclaimed persons, is in violation of Section 82 Cr.P.C. because there was no proclamation, directing the petitioners to surrender/appear in the Court on that day, i.e. 07.07.2023. Proclamation had been issued for 25.05.2023, but on that day, the period of 30 days had not elapsed and so the matter had been adjourned to 07.07.2023, without ordering for fresh proclamation.

4. Notice of motion.

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

6. Learned State counsel could not refute the aforesaid contention, which is based on the record.

7. In the circumstances, the order dated 07.07.2023 passed by the Trial Court, whereby petitioners were declared proclaimed persons, cannot be sustained in the eyes of law. At the same time, this Court notices that

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petitioners have breached the terms and conditions of the bonds, which they have furnished before the Trial Court by absenting themselves intentionally for a long time.

8. Having regard to the aforesaid facts and circumstances, present petition is disposed of by setting aside the order dated 07.07.2023 (Annexure P-11), whereby petitioners were declared as proclaimed persons, but at the same time, petitioners are directed to surrender before the Trial Court on or before 15.04.2024. On their such surrender, the trial Court shall initiate the proceedings under Section 446 Cr.P.C. and after disposal of those proceedings, the petitioner shall be admitted to bail. Till the disposal of the proceedings under Section 446 Cr.P.C., petitioner shall not be taken into custody. If in the meantime, petitioners are sought to be arrested on account of warrants of arrest having been issued against them, they shall be admitted to interim bail to the satisfaction of the Arresting Officer.

Disposed of.

March 22, 2024

sarita

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No