

2024.PHHC:108676



CRM-M-16101-2024 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16101-2024 (O&M)

Reserved on :22.08.2024

Date of Pronouncement:23. 08.2024

Parveen

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Pallavi Babbar, Advocate, for the petitioner.

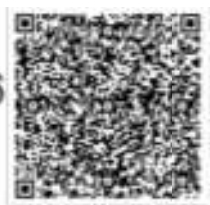
Mr. Naveen Kumar Sheoran, DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the impugned order dated 07.10.2023 (Annexure P-15) passed by the Additional Chief Judicial Magistrate, Karnal declaring the petitioner as a proclaimed person in FIR No.551 dated 25.05.2019 under Sections 406, 420, 506 IPC, Police Station Karnal Sadar, District Karnal with a further prayer to quash the order dated 22.04.2022 (Annexure P-9) vide which his bail was cancelled and bail bonds were ordered to be forfeited to the State.

2. The learned counsel for the petitioner contends that the wife of the petitioner had also challenged the order whereby she had been declared a proclaimed person and this Court vide a judgment dated

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08.01.2024 (Annexure P-20) had quashed the said order. The case of the petitioner was on an identical footing with that of his wife and therefore, the impugned orders dated 07.10.2023 (Annexure P-15) and 22.04.2022 (Annexure P-9) were liable to be set aside.

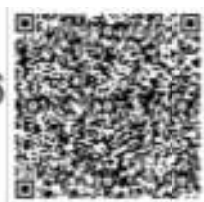
3. The learned counsel for the State admits the aforementioned factual position that the case of the petitioner was identical to that of his wife qua whom the proceedings stand quashed.

4. I have heard the learned counsel for the parties.

5. Saroj Rani, wife of the petitioner had challenged the orders dated 07.10.2023 and 22.04.2022 vide CRM-M-481-20224 which was allowed vide order dated 08.01.2024. The relevant extract of the aforesaid order is reproduced hereinbelow:-

9. 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.

10. 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 herself. 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



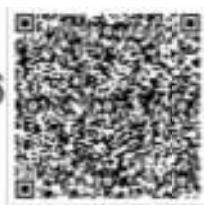
required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. and nonrecording of the satisfaction itself makes such order suffering from incurable illegality. In the judgment passed by this Court in Sonu Vs. State of Haryana 2021 (1) RCR (Crl.) 319, it has been held that the conditions specified in Section 82 (2) Cr.P.C. for the publication of a proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation and proceedings subsequent thereto a nullity.

11. 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 herself come forward and has undertaken to appear before the trial Court on each and every date.

12. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 22.04.2022 (Annexure P-11) vide which the bail of the petitioner before the learned trial Court was cancelled and bail bonds were forfeited to the State and warrants of arrest were issued and order dated 07.10.2023 (Annexure P-15) vide which the petitioner was declared as proclaimed person, are hereby set aside.

13. The petitioner is directed to appear before the trial Court within a period of 15 days from today and on her doing so, she shall be admitted to bail on her 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, Karnal, for wasting precious time of the Court.

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6. When the present petition had come up for hearing on 03.04.2024, the following order was passed:-

The petitioner assails order dated 07.10.2023 (Annexure P-15) vide which the petitioner as well as his wife, namely, Saroj i.e. the co-accused were declared as 'proclaimed person'.

Learned counsel for the petitioner submits that in the instant case the petitioner and his wife i.e. the co-accused, were never served and that the co-accused i.e. the petitioner's wife Saroj had approached this Court challenging the same very order by way of filing CRM-M-481-2024, which has been accepted vide order dated 08.01.2024. It has been submitted that the petitioner's case is identical with the case of the co-accused i.e. the petitioner's wife and as such, on grounds of parity, impugned order dated 07.10.2023 deserves to be set aside qua the petitioner as well.

Notice of motion for 22.08.2024.

Meanwhile, operation of the impugned order qua declaration of the petitioner as a 'proclaimed person' be kept in abeyance.

7. In view of the fact that the case of the petitioner is on identical footing as that of this wife, the present petition is allowed and the impugned orders dated 07.10.2023 (Annexure P-15) and 22.04.2022 (Annexure P-9) are hereby quashed

8. 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

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satisfaction of the Trial Court concerned alongwith costs of Rs.50,000/- to be deposited with Spinal Rehab Centre, Chandigarh Plot No.1, Madhya Marg, Sector 28-A, Chandigarh, 0172-4610311.

9. A copy of the receipt with regard to deposit of Rs.50,000/- as costs be placed on the case file.

(JASJIT SINGH BEDI)
JUDGE

August 23, 2024
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No