



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

138

CRM-M-15977-2024
Date of decision :10.05.2024

PARMINDER PAL

...PETITIONER

Versus

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present : Mr. Rajiv Joshi, Advocate
for the petitioner.

Mr. Athar Ahmad, DAG, Punjab.

HARKESH MANUJA, J. (ORAL)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of order dated 08.04.2006 (Annexure P.5) passed by the learned Sub Divisional Judicial Magistrate, Phillaur whereby the petitioner has been declared as proclaimed offender having been arrayed as an accused in FIR No.65 dated 22.04.2001 under Sections 406,420 IPC read with Section 120-B IPC registered at P.S Phillaur, District Jalandhar.
2. The petitioner was though granted concession of regular bail, however, having failed to appear before the learned trial Court on 08.04.2006, the aforesaid proceedings of proclamation were initiated against him under Section 82 Cr.P.C.
3. Learned counsel for the petitioner submits that declaration of



petitioner as proclaimed offender was not in consonance with the mandate of the Code of Criminal Procedure and thus was unsustainable in law. He also submits that the petitioner is ready to surrender before the learned trial Court and face the trial.

4. At this stage, service upon complainant-respondent No.2 may be not necessary and, thus the same is dispensed with as the order declaring the petitioner as proclaimed offender primarily relates between the petitioner and the Court concerned. Even otherwise, the process of issuing notice at this stage, to respondent No.2 would entail unnecessary financial burden on the respondent No.2.

5. Upon advance notice, learned State counsel has put in appearance for the State of Punjab and vehemently submitted that the petitioner despite having knowledge about the proceedings remained absent from the trial Court leading into passing of the impugned order.

6. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

7. In the present case, the proclamation under Section 82 Cr.P.C was issued against the petitioner on 10.01.2006 for 20.02.2006 but since the proclamation was not received back duly effected, as such fresh proclamation was ordered *qua* the petitioner on 20.03.2006. On 22.03.2006, since the statutory period of 30 days had not elapsed, as such the proceedings were adjourned to 08.04.2006 for appearance of the petitioner. The relevant zimini orders referred hereinabove are reproduced hereunder:-

“Present: App of State.



Non-Bailable warrant of the accused receive back with report unexecuted, Statement of Serving Constable recorded proclamation of the accused be issued for 20.2.06.

*Mrs Jaswinder Sheemar,
SDJM 10.01.2006*

Present: APP for State.

Proclamation issued against accused Bhagat Ram received back duly effected. Statement of observing constable recorded. However, the period of 30 days has not expired from effecting of proclamation against accused Bhagat Singh. However, proclamation issued against accused Parminder Pal not received back. Fresh proclamation be issued against accused Parminder Pal, for 20.3.06.

*Ms. Jaswinder Sheemar,
SDJM. 20.02.2006.*

At this stage, accused Bhagat Ram surrendered and moved bail application. He be taken into custody and be produced on 6.3.06. Notice of the bail application be issued to the State for 23.02.06.

*Ms. Jaswinder Sheemar,
SDJM. 20.02.2006.*

Accused Bhagat Ram Pal present. Be put up on 20.03.06.

*(Ms. Jaswinder Sheemar)
SDJM. 06.03.2006.*

Present: APP for State.

Counsel for accused. File taken up today on the application moved on behalf of accused Bhagat Ram for bail, on 20.02.06 on which date accused Bhagat Ram surrendered in Court. Perusal of the file reveals that the proceedings u/s 82 Cr.P.C. were initiated against this accused, he was yet to be declared proclaimed offender, when he surrendered before the Court. The accused is no in judicial custody since 20.2.06. No



useful purpose will be served by detaining the accused in custody any more. Hence accused Bhagat Ram is admitted to bail on his furnishing personal bond in the sum of Rs. 20,000/- with one surety of like amount. File be put upon 20.3.06 the date already fixed.

(Mrs. Jaswinder Sheemar)

SDJM/13.3.06

Present: Counsel for accused.

File put up today on the application moved on behalf of accused Bhagat Ram for furnishing bail bonds. Bail bonds furnished, which have been accepted. Release orders be issued. File be put up on 20.03.06 the date already fixed.

(Ms. Jaswinder Sheemar),

SDJM 16.3.06.

Present: APP/accused on bail except Parminder Pal.

Proclamation of accused Parminder Pal received back duly effected. State observing constable recorded who proved the proclamation as Ex.PA and report as Ex.PB. The period of 30 days has not been elapsed. Therefore, for appearance of accused, case is adjourned to 8/4/2006.

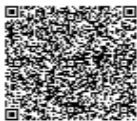
(Ms. Jaswinder Sheemar)

SDJM: 20/3/2006”

8. Thereafter, on the said date i.e 08.04.2006, on account of his non-appearance, the petitioner was declared as proclaimed offender.

9. A perusal of the aforesaid zimni orders show that vide order dated 20.03.2006, no such proclamation was issued for 08.04.2006, as such the declaration of petitioner as proclaimed offender on 08.04.2006 is wholly uncalled for.

10. Accordingly, petition stands allowed, however, subject to



providing one water cooler of Blue Star brand to the Civil Hospital, Phillaur, within a period of two weeks from today as volunteered by the petitioners against due receipt, issued by the concerned Civil Surgeon, who shall prepare an inventory in this regard for its regular inspection by the Director concerned. A copy of the receipt shall also sent to the Office of Advocate General, Haryana, at the earliest for maintaining records in this regard.

(HARKESH MANUJA)
JUDGE

10.05.2024
monika

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