

S. No.131

2024:PHHC:047369

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

CRM-M-16671 of 2024

Date of Decision:08.04.2024

Sunil Bhatt

.....Petitioner

Vs.

State of UT, Chandigarh and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ujwal Anand, Advocate for the petitioner.

DEEPAK GUPTA, J. (Oral)

By way of this petition filed under Section 482 Cr.P.C., petitioner prays for setting aside the impugned order dated 20.03.2024 (Annexure P-8), whereby petitioner has been declared proclaimed person by learned JMIC, Chandigarh during the proceedings of criminal complaint No.172 of 2022 titled as 'M/s Kamal Motors v. M/s New Kamal Motors'.

With the help of various zimni orders passed by the Trial Court, learned counsel contends that petitioner had been earlier allowed bail and was regularly appearing before the Court. The case had reached at the stage of defence evidence. On 14.12.2023, petitioner could not appear due to which his bail was cancelled and bonds were forfeited. Warrants of arrest were directed to be issued for 15.01.2024 and on the very next date of hearing as warrants were received back unexecuted, the proclamation under Section 82 Cr.P.C. was issued.

Learned counsel contends that the warrants as well as proclamation were not sent at the address on which the petitioner is residing and that petitioner is ready to surrender.

Bare perusal of the order dated 15.01.2024 (Annexure P-4) would reveal that proclamation under Section 82 Cr.P.C. was directed to be issued,

without recording any satisfaction by the trial Court to the effect that petitioner-accused had absconded or was concealing himself and that warrants could not be executed. Thus the order dated 15.01.2024 was passed in total non-compliance of Section 82(1) Cr.P.C.

As such, without issuing any notice of motion to respondents, lest it may delay the proceedings, the petitioner is hereby directed to surrender before the Trial Court on or before 26.04.2024. On his such appearance, the Trial Court will initiate proceedings under Section 446 Cr.P.C. against the petitioner and after disposal thereof, shall admit the petitioner to bail.

It is made clear that till the disposal of proceedings under Section 446 Cr.P.C., petitioner shall not be taken into custody. If in the meantime, petitioner is sought to be arrested on account of proclamation having being issued against him, he shall be admitted to interim bail to the satisfaction of Arresting Officer.

Apart from the above, this petition is allowed subject to cost of ₹10,000/- to be deposited in District Legal Services Authority, Chandigarh.

April 08, 2024
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(DEEPAK GUPTA)
JUDGE

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