

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

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**CRM-M No.16723 of 2024
Date of Decision: 05.04.2024**

**RAGHBIR SINGH
Vs
STATE OF PUNJAB**

**.....Petitioner
....Respondent**

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Ramneek Singh, Advocate
for the petitioner.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition under Section 482 Cr.P.C., prayer has been made for quashing the order dated 23.02.2023 passed by the Judicial Magistrate Ist Class-VI, Kapurthala, whereby the petitioner was declared as proclaimed person having been arrayed as an accused in FIR No.224 dated 02.12.2019 registered under Sections 324, 452, 148 & 149 IPC at Police Station Kotwali, Kapurthala.

[2]. Briefly stating, in the aforementioned FIR, on account of his non-appearance before the concerned Court, petitioner was declared as proclaimed person vide the aforesaid order dated 23.02.2023 passed by the Judicial Magistrate Ist Class-VI, Kapurthala.

[3]. Learned counsel for the petitioner submits that petitioner was granted concession of anticipatory bail by this Court vide order dated 27.02.2020 passed in CRM-M No.1374 of 2020 thereupon he has been regularly appearing before the Trial Court. Thereafter on one date in October 2022, petitioner absented himself resulting into cancellation of his bail and forfeiture of bail bonds and surety bonds and declaring him as proclaimed person vide order dated 23.02.2023.

[4]. Impugning the aforesaid order dated 23.02.2023, learned counsel for the petitioner submits that there was non-compliance of Section 82 Cr.P.C. while declaring the petitioner as proclaimed person. He further submits that even on merits the other co-accused have already been acquitted by the Trial Court vide judgment dated 29.09.2023 and the petitioner is even ready and willing to surrender before the Trial Court and face trial.

[5]. Notice of motion.

[6]. On asking of the Court, Mr. Kewal Singh, Addl. A.G., Punjab accepts notice on behalf of the respondent/State.

[7]. Learned State counsel while vehemently opposing the prayer made on behalf of the petitioner submits that the petitioner despite having knowledge about pendency of the proceedings and the FIR against him, deliberately chose not to submit himself to the jurisdiction of the Trial Court and, thus, he is not entitled for any discretion and the impugned order warrants no interference.

[8]. I have considered the submissions made by learned counsel for the parties and gone through the paper book.

[9]. Perusal of record shows that on account of non-appearance of the petitioner, proclamation under Section 482 Cr.P.C. was issued vide order dated 23.01.2023 for 06.02.2023 being the date for appearance whereas the proclamation was effected on 11.01.2023 and on 06.02.2023, the matter was adjourned to 23.02.2023 as the statutory period of 30 as days required under Section 82 Cr.P.C. had not elapsed by 06.02.2023. Once no proclamation under Section 82 Cr.P.C., was effected for enabling the petitioner to put in appearance for 23.02.2023, the Trial Court could not have declared him as proclaimed person on the said date in the absence of any specific proclamation in this regard. Moreover, the petitioner is even ready to appear and surrender before the Trial Court.

[10]. Accordingly this petition is allowed and in view of mandate of Section 82 Cr.P.C., the impugned order dated 23.02.2023 passed by the Judicial Magistrate Ist Class-VI, Kapurthala is set aside. The petitioner shall surrender before the Court concerned within a period of 15 days from today and furnish his bail bonds and surety bonds to the satisfaction of the Court. Till then, no coercive steps be taken against the petitioner.

April 05, 2024

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No