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

CRM-M-16616-2024

Date of Decision: 24.07.2024

AVTAR SINGH

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. L.S. Mann, Advocate for the petitioner.

Mr. Ankit Grewal, DAG Punjab..

SANJIV BERRY, J. (ORAL)

Mr. Pankaj Bali, Advocate has put in appearance on behalf of respondent No.2 and has filed his memo of appearance. The same is taken on record.

2. The instant petition under Section 482 Cr.P.C. has been moved by the petitioner seeking quashing of the order dated 09.11.2023 (Annexure P-10) passed by learned Sub-Division Judicial Magistrate, Khanna in complaint case bearing No.COMI-05/16 whereby the petitioner was declared as proclaimed offenders in this case.

3. Learned counsel for the petitioners *inter alia* contends that in compliance of the order dated 08.04.2024, petitioner appeared before the learned trial Court on 15.04.2024 and furnished requisite bail bonds and surety bonds and placed on record copy of order dated 15.04.2024 passed by learned Sub Divisional Judicial Magistrate, Khanna. He contends that since the petitioner has joined the trial Court proceedings, as such the order dated



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09.11.2023 (Annexure P-10) passed by learned Sub-Divisional Judicial Magistrate, Khanna whereby the petitioner was declared as proclaimed offender, be quashed.

4. Learned State counsel has not disputed the aforesaid factual matrix of the case and submits that petitioner appeared on 15.04.2024 before the learned trial Court and furnished requisite bail bonds.

5. Learned counsel appearing on behalf of respondent No.2 submits that the petitioner absented from proceedings and as such, he is not entitled to relief as prayed for.

6. Heard.

7. During the course of the proceedings, following order was passed on 08.04.2024:-

“1. Learned counsel for the petitioner inter alia contends that the petitioner had been summoned in the complaint case titled ‘Dharam Singh vs. Ms. Guru Nanak Trading Company etc.’ bearing CIS No.COMI/15/2016 (Annexure P-8.). However, the petitioner never received any notice from the Court.

2. Learned counsel for the petitioner further contends that on coming to know about the issuance of non-bailable warrants, the petitioner challenged the same before the Revisional Court which was, however, dismissed vide order dated 10.07.2023 (Annexure P-7).

3. Learned counsel for the petitioner further contends that the counsel representing the petitioner did not inform the petitioner about the outcome of the petition due to which the petitioner failed to appear before the learned Trial Court.

4. He contends that in the meanwhile, the learned Trial Court proceeded to issue proclamation straightaway on receipt of the original file vide order dated 31.08.2023 (Annexure P-8) and the proclamation was issued for 21.10.2023.

5. He further contends that on 21.10.2023 vide order Annexure P-9 the case was adjourned to 09.11.2023 for awaiting the appearance although there was no fresh proclamation/notice issued to the petitioner for his appearance on 09.11.2023 and



consequently the learned Trial Court vide impugned order Annexure P-10 dated 09.11.2023 proceeded to declare the petitioner as proclaimed offender in this case in violation of the provisions contained in Section 82 Cr.P.C.

6. Learned counsel for the petitioner prays for setting aside of the impugned order and submits that the petitioner is ready to face the trial.

7. Notice of motion.

8. Mr. Harpreet Singh, Addl. AG, Punjab present in Court, accepts notice on behalf of the State-respondent.

9. Notice to respondent No. 2 for 08.05.2024. Dasti as well.

10. In the meanwhile, petitioner is directed to appear before the learned Trial Court within 10 days from today and in the event of his arrest, he is ordered to be released on interim bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned Court.

11. The petitioner will not leave the country without prior permission of the Court nor shall make any attempt to contact the complainant of the case or any witness associated with the case.”

8. Keeping in view the fact that the petitioner has already appeared on 15.04.2024 before the learned trial Court and furnished requisite bail/surety bonds consequent to the order dated 08.04.2024, passed by this Court, the present petition is allowed and order dated 09.11.2023 (Annexure P-10), passed by learned Sub Divisional Judicial Magistrate, Khanna, whereby the petitioner was declared as proclaimed offender is hereby set aside and the interim bail granted vide order dated 08.04.2024 is hereby confirmed.

9. The Petition stands disposed of.

(SANJIV BERRY)
JUDGE

24.07.2024

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | Yes |