

CRM-M-17563 of 2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17563 of 2024
DECIDED ON: 13th May, 2024

Nirmal Lal

.....PETITIONER

VERSUS

State of Punjab and another

.....RESPONDENTS

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

Present: Mr. Vinod K. Kaushal, Advocate for the petitioner.

Mr. Malkiat Singh, DAG Punjab.

SANJIV BERRY, J (ORAL)

Learned counsel for the petitioner has produced on record copy of order dated 30.4.2024 passed by the Court of learned Sub Divisional Magistrate, Garhshankar, in case titled as "State of Punjab Versus Nirmal Lal etc.", to submit that in compliance with the order dated 10.4.2024 passed by this Court, the petitioner has appeared in the trial court and furnished the requisite bail bonds.

2. Learned State counsel has not disputed this aspect.
3. During the course of hearing on 10.4.2024, following order was passed by this Court:

"The instant under Section 482 Cr.P.C. has been filed for quashing of the impugned order dated 23.08.2018 vide which the petitioner was declared proclaimed offender by the learned Court of Sub Divisional Judicial Magistrate, Garhshankar vide order dated 23.08.2018 (Annexure P-2) in case FIR No.214 dated

19.12.2017 registered under Section 420 of IPC at P.S. Garhshankar, District Hoshiarpur (Annexure P-1) and all other consequential proceedings arising therefrom on the basis of compromise dated 29.02.2024 (Annexure P-3) executed between the parties.

2. *Learned counsel for the petitioner, inter alia, contends that the petitioner has been wrongly declared as proclaimed offender in this case vide impugned order dated 23.08.2018 (Annexure P-2) by learned Sub Divisional Judicial Magistrate, Garhshankar. He submits that the petitioner was not in India at the relevant time and he has never received any notice, warrant or proclamation in the case. He contends that even from the perusal of the zimni orders passed by the learned trial Court vide Annexure P-5, it is evident that the proclamation under Section 82 Cr.P.C. for the presence of the petitioner for 30.07.2018 was issued by the concerned Court on 31.05.2018, however, instead of 30.07.2018, the case was taken up on 26.07.2018 when the statement of executing official was recorded and thereafter the case was adjourned to 17.08.2018 and later on to 23.08.2018, when the impugned order declaring the petitioner as proclaimed offender has been passed by learned Court, he submits that there was no proclamation for the appearance of the petitioner either for 26.07.2018 or 17.08.2018 and for that matter, no such proclamation for 23.08.2018. He submits that the impugned order has been passed without following the procedure laid down under Section 82 Cr.P.C. This apart, he submits that even the matter has been compromised with the complainant as per compromise dated 29.02.2024 (Annexure P-3) and the petitioner is ready to appear in the trial Court.*

3. *Notice of motion.*

4. *On the asking of the Court, Mr. Harpreet Singh, Addl. A.G., Punjab, who is present in Court, accepts notice on behalf of the respondent-State and on instructions from ASI Ravish Kumar, admits the fact that the petitioner is the only accused in this case registered at the instance of respondent No.2.*

5. *Mr. Charitr Kadyan, Advocate, has put in appearance on behalf of respondent No.2 and filed power of attorney, which is taken on record. He has admitted the factum of compromise.*

6.

Heard.
7.

In these circumstances, considering the averments made in the petition coupled with the submissions made by learned counsel for the parties, without commenting on the merits, at this stage, the petitioner is directed to appear before the trial Court/ Duty Magistrate on or before 03.05.2024 and in the event of his arrest, he is ordered to be released on interim bail on his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate.
8.

List on 13.05.2024.
4.

Arguments heard.
5.

As is evident from the submissions made by learned counsel for the petitioner and from perusal of order dated 30.4.2024 passed by learned Sub Divisional Magistrate, Garhshankar, the petitioner has appeared in the trial Court and furnish the requisite bail bonds in compliance to the order dated 10.4.2024 passed by this Court.
6.

The petitioner has already joined the trial proceedings.
7.

Therefore, in these circumstances, the present petition is hereby allowed thereby setting aside the impugned order Annexure-P2 dated 23.8.2018 and the interim bail granted to the petitioner vide order dated 10.4.2024 (supra) is hereby confirmed.
8.

Disposed of.

13th May, 2024
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(SANJIV BERRY)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No