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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-18091-2024

Date of Decision: 24.07.2024

SANTOSH KAUR AND ANOTHER

... Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

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

Present:- Mr. Ajaivir Singh, Advocate for the petitioners.

Mr. Adesh Pal Singh, AAG, Punjab..

SANJIV BERRY, J. (ORAL)

Mr. Sarfraj Hussain, Advocate has put in appearance on behalf of respondent No.2 and has filed his vakalatnama. The same is taken on record.

2. The instant petition under Section 482 Cr.P.C. has been moved by the petitioners seeking quashing of the order dated 31.07.2017 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Jalandhar in complaint case bearing No.COMI-31699-2013 (Annexure P-2), whereby the petitioners were declared as proclaimed offenders in this case.

3. Learned counsel for the petitioners *inter alia* contends that in compliance of the order dated 22.04.2024, petitioners appeared before the learned trial Court on 07.05.2024 and furnished requisite bail bonds and surety bonds and placed on record copy of order dated 07.05.2024 passed by learned Additional Sessions Judge, Jalandhar. He contends that since the petitioners have joined the trial Court proceedings, as such the order dated 31.07.2017



(Annexure P-1) passed by learned Judicial Magistrate Ist Class, Jalandhar whereby the petitioners were declared as proclaimed offenders, be quashed.

4. Learned State counsel on instructions from S.I. Avtar Singh has not disputed the aforesaid factual matrix of the case and submits that petitioners appeared on 07.05.2024 before the learned trial Court and furnished requisite bail bonds.

5. Learned counsel appearing on behalf of respondent No.2 has opposed the grant of bail to the petitioners.

6. Heard.

7. During the course of the proceedings, following order was passed on 22.04.2024:-

“ By way of present petition under Section 482 Cr.P.C., the petitioners have challenged the impugned order dated 31.07.2017 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Jalandhar, in the complaint case bearing No. COMI-31699-2013 (Annexure P-2) whereby the petitioners had been declared as proclaimed offender in this case.

2. It is, inter alia, contended by learned counsel for the petitioners that on a complaint filed by respondent No.2, the petitioners along with one another person were summoned as accused vide order dated 02.09.2015 (Annexure P-3) to face trial for having committed offences punishable under Sections 323, 379, 447, 506 and 34 of IPC. He contends that the petitioners had been residing in United States even prior to the filing of the said complaint and had been coming to India on various dates and has referred to the copies of passport annexed with the petition and mentioned in tabulated form in the petition itself. He submits that the petitioners never received any notices or warrants to appear in the said complaint case and the learned Judicial Magistrate Ist Class, Jalandhar, has declared the petitioners as proclaimed offender in this case in violation of the provisions contained under Section 82 Cr.P.C. as neither any proclamation was issued for the date fixed nor even the statement of any executing official was recorded to ascertain the due service of the proclamation as per the procedure laid down in the law. He submits that the petitioners are



ready to face the trial and are not having any other criminal case against them.

3. *Notice of motion.*

4. *On the asking of the Court, Ms. Gaganpreet Kaur, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.*

5. *Let respondent No.2 be served through notice for 10.07.2024.*

6. *Dasti as well.*

7. *In the meanwhile, the petitioners are hereby directed to appear in the trial Court/Duty Magistrate within seven days from today and in the event of their arrest, they are ordered to be released on interim bail on their furnishing personal/surety bonds to the satisfaction of the concerned Court.*

8. Keeping in view the fact that the petitioners have already appeared on 07.05.2024 before the learned trial Court and furnished their requisite bail/surety bonds consequent to the order dated 22.04.2024, passed by this Court, the present petition is allowed and order dated 31.07.2017 (Annexure P-1), passed by learned Judicial Magistrate Ist Class, Jalandhar, whereby the petitioners were declared as proclaimed offenders is hereby set aside and the interim bail granted vide order dated 22.04.2024 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 |