

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-20619-2024
Date of Decision: 26.4.2024

Joga Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. G.S.Jagpal, Advocate,
for the petitioner.

KARAMJIT SINGH, J. (Oral)

Present petition has been filed by the petitioner/accused seeking quashing of order dated 28.7.2023 (Annexure P-7) passed by the Court of Additional Sessions Judge, Ludhiana whereby the petitioner has been declared as proclaimed offender in criminal case having FIR No.174 dated 19.7.2018 registered under Sections 21 of Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 IPC at Police Station Meharban, District Ludhiana.

2. Counsel for the petitioner submits that the petitioner was granted bail in the aforesaid criminal case by the Court concerned vide order dated 27.7.2018 (Annexure P-2) and thereafter, the petitioner was regularly appearing in the trial Court but got absented on 18.10.2022 and accordingly, his bail bonds and surety bonds were cancelled and the petitioner was directed to be summoned through non-bailable warrants of arrest; that, however, no one came to the residence of the petitioner to serve warrants of arrest. It is further submitted that the petitioner was declared as proclaimed

person vide order dated 28.7.2023 (Annexure P-7) without following proper procedure as per the mandate of Section 82 of Cr.P.C.. It is further submitted that the petitioner is ready to join the proceedings before the trial Court at the earliest.

3. Notice of motion.

4. Mr. Jasjeet Singh Dhaliwal, AAG, Punjab accepts notice on behalf of the State and submits that the petitioner jumped bail on 18.10.2022 and thereafter, never appeared in the Court to seek bail and was finally, declared proclaimed offender vide order Annexure P-7 passed by the Court of Additional Sessions Judge, Ludhiana. State counsel further submits that there is no illegality in the impugned order.

5. I have heard the counsel for the parties.

6. The petitioner was granted anticipatory bail by the Court of Additional Sessions Judge, Ludhiana vide order dated 27.7.2018 (Annexure P-2) and thereafter, he was regularly appearing before the trial Court but was absent on 18.10.2022 and consequently, his bail bonds and surety bonds were cancelled and the trial Court directed to summon him through warrants of arrest and finally, the petitioner was declared proclaimed person vide impugned order (Annexure P-7).

7. From the perusal of Annexure P-6 which is report of the serving constable dated 10.6.2023, it appears that one copy of the proclamation was affixed on conspicuous part of the house of the petitioner, a copy thereof was affixed on a common place i.e. bus stop of the village of the petitioner and one another copy of proclamation was affixed on notice board of the Court concerned. From the perusal of the said report, it appears that the concerned proclamation was not publicly read in

some conspicuous place of the village of the petitioner as per requirement of Section 82(2)(i)(a) of Cr.P.C.. Thus, the proclamation in question was not effected in consonance with the mandatory provisions of Section 82 of Cr.P.C.

8. As that may be, the petitioner was fully aware about the pendency of the aforesaid criminal case from the very beginning and got absented during the trial and as such, requires to be penalized by imposing costs.

9. In light of above, the present petition is allowed, without expressing any opinion on the merits of the case and the impugned order is hereby set aside subject to costs of ₹ 3000/- which is to be deposited by the petitioner with District Legal Services Authority, Ludhiana within next 15 days.

(KARAMJIT SINGH)
JUDGE

April 26, 2024
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No