

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-19307-2019
Reserved on:01.08.2024
Pronounced on: 12.08.2024

Sandeep @ Sukhsagar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. G.B.S. Gill, Advocate
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
694	25.08.2017	City Sirsa	147, 148, 149, 307, 341, 364, 379-A, 427, 435 IPC (Section 364 deleted and Section 188 added lateron)

1. Seeking the quashing of proclamation order Annexure P-2, the accused had come up before this Court way back in April 2019 under Section 482 of the Code of Criminal Procedure, 1973 (CrPC).
2. The petitioner was arraigned as an accused in the above-captioned matter. On failure to serve the petitioner through the ordinary process, including summons, bailable warrants, and even non-bailable warrants, the concerned court finally proceeded against the petitioner under section 82 of CrPC and declared the petitioner a proclaimed person vide order dated 28.05.2018.
3. The petitioner wants to draw this court's attention to the fact that the absence was not willful and was due to factors beyond the petitioner's control. The State could not dispute the factual matrix at this stage.
4. A proclamation was issued because they attempted to serve him at an address where he did not reside. According to the petitioner, several cases were brought against him, and he was detained and held in custody.
5. I have gone through the pleadings, and there is nothing to dispute the stand of the petitioner, which is well reasoned. Given above, the petitioner has made a case on the

preponderance of probability that neither any sincere attempt was made to execute the warrants nor did the petitioner have any knowledge about appearance as contemplated under section 82 CrPC. Thus, the order is arbitrary and did not afford reasonable opportunity as mandated under Section 82 of CrPC.

6. Given the above, the impugned order 28.05.2018 (Annexure P-2) shall remain stayed till **20 Aug 2024, 4 PM**, and if the petitioner appears before the concerned Court before this date and time, then it shall stand quashed and set aside with effect from the date and time recorded by the concerned Court mentioning the petitioner's appearance and compliance of this order.
7. It is clarified that if the petitioner fails to appear before the concerned trial Court on or before the above-given date, this order shall stand recalled automatically by resorting to powers of this Court under Section 403 read with 528 BNSS without any further reference to this Court.
8. The counsel for the petitioner shall inform the petitioner that this Court has directed him to appear before the trial Court on or before any date mentioned above.
9. Regarding other prayers, liberty is reserved to come to this Court or appropriate Court after complying with the terms and conditions of this order within the date and time mentioned above.
10. The petition is partly allowed subject to the petitioner appearing before the trial Court. All pending miscellaneous applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

12.08.2024
Jyoti Sharma

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>NO</i>