

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22138-2024 (O&M)
Date of order: 03.05.2024

Arun Kumar
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
Present:- Mr. Sidhant Bhonsle, Advocate
for the petitioner(s).
Ms. Swati Batra, DAG, Punjab (through VC)

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
300	2.12.2021	Moti Nagar, District Ludhiana	420 IPC

1. Challenging the order of proclamation on being declared as a proclaimed offender, the petitioner, has come up before this court under section 482 of the Code of Criminal Procedure, 1973 (CrPC).
2. Counsel appearing for the State has strenuously opposed this petition, including the limited relief as confined by the petitioner.
3. The nature of order this Court proposes to pass, no response is required from the State.
4. Facts of the case are being taken from the pleadings itself and as per which, the main accused, who is brother-in-law of the petitioner had committed fraud of Rs.97,80,000/- with the complainants on the pretext of getting their money invested in mutual fund. The allegation against the petitioner is that he received an amount of Rs.5,00,000/- from the main accused.
5. Petitioner’s counsel submits that the petitioner has been falsely involved in the present case. He submits that the FIR was registered only against Kapil Sharma, the main accused and charge was framed against him only. It was on filing of application u/s 319 CrPC, the petitioner was summoned as additional accused. Thus, he has

unnecessarily been arraigned as an accused. He further submits that after filing of the police report, trial Court had issued non-bailable warrants on 8.11.2023 and proclamation warrants under Section 82 CrPC were issued against him on 21.12.2023. Petitioner's grievance is that non-bailable warrants issued against him were not received back but still proclamation was issued.

6. Petitioner's counsel submits that prior to this NBWs at no point of time, bailable warrants were issued against the petitioner or served against him and straightway non-bailable warrants were issued against him and thereafter, proclamation warrants under Section 82 CrPC were issued on 21.12.2023. Petitioner's counsel submits that petitioner is the only bread earner of his family and has been falsely implicated in the present case. He undertakes to appear on each and every date and also on the date which this court directs him to appear this time.

7. An analysis of the submissions and the petition would lead to the following outcome. It remains undisputed that when the petitioner got to know about his being declared a proclaimed offender, he took a legal remedy and came up before this Court. It also remains undisputed that it never happened that police officials had caught him, or had tried to run away to avoid appearance in the Court. The petitioner has proved by a preponderance of probability that he might not be aware of the issuance of the proclamation primarily because he was initially not involved in the case.

8. The petitioner not only seeks to quash the proclamation order but also the consequent proceedings arising therefrom. However, this Court is adjudicating only the proclamation order and let the petitioner establish his intention to appear, and once he has put in an appearance, then it shall be permissible for him to file petition for quashing of proceedings under Section 174-A IPC. Let him do that because the criminal justice system must not hamper and suffer because of the petitioner. Given the above, this Court is confining the adjudication of this matter to the extent mentioned before, reserving the liberty to the petitioner as mentioned above.

9. The primary object of the service is to secure the accused's presence at trial. The petitioner approached this court independently, establishing the *bona fide* at this stage. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet if the impugned proclamation order is quashed qua the petitioner. Thus, exercising the inherent powers under section 482 CrPC, it would be appropriate to grant the following limited relief to the petitioner, subject to the compliance of the conditions mentioned in this order.

10. The State's counsel submitted that if this Court is granting any concession to the petitioner, it must be subject to some reprimand. The petitioner's counsel declared

that if this court imposes reasonable and affordable costs, the petitioner shall deposit the same.

11. Given above, by the next date, the petitioner shall deposit a sum of rupees ten thousand in the account of “Poor Patients Welfare Fund, PGIMER, Chandigarh” and hand over its receipt to the concerned court(s).

12. The petitioner is directed to surrender before the concerned court **on or before 09-05-2024**. On or before this date, if the petitioner files bail application(s) before the concerned Court(s) of the concerned district, this Court is requesting the concerned court to grant interim bail to the petitioner on surrendering before the majesty of the Court on the same day, subject to furnishing bail bonds by imposing reasonable conditions that may be deemed appropriate in the background of the accused’s conduct till the disposal of his bail petition.

13. There shall be a stay of the petitioner's arrest in the case mentioned above and the resultant FIR under section 174-A of IPC, if any, until his surrender, i.e., latest by 09.05.2024. It is clarified that if the petitioner appears before the concerned court, then all warrants issued by the concerned court against the petitioner in the matter mentioned above shall stand recalled and canceled. It is clarified that if the petitioner fails to appear before the concerned court within the time limit mentioned in this order, then this order shall be recalled automatically under section 362, read with 482 CrPC, without any further reference to this court.

14. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

15. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition partly allowed to the extent mentioned above. All pending applications, if any, stand disposed. Liberty reserved to raise the given-up relief(s) in the subsequent petition(s), if the need so arises.

(ANOOP CHITKARA)
JUDGE

May 03, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No