



137 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26236-2024
Decided on:-23.05.2024

Sahil Bhatia

....Petitioner..

vs.

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Raghav Soni, Advocate for the petitioner.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, challenge has been laid to an order dated 07.10.2023 passed by the Court of Judicial Magistrate Ist Class, Amritsar, whereby the petitioner was declared as proclaimed person.

2. Having been implicated in FIR No.225 dated 28.08.2020 registered under Section 61-1-14 of Excise Act, 1914 at Police Station Gate Hakima, District Amritsar, petitioner was admitted to police bail, however, later having failed to appear before the trial Court, he was declared as proclaimed person.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that the order dated 07.10.2023 was wholly unsustainable in law as no details of particulars were mentioned therein as to on which date the proclamation under Section 82 Cr.P.C. was effected and thus, the same is liable to be set aside.

4. Upon advance notice, Mr. Athar Ahmed, DAG, Punjab appears

on behalf of the respondent-State and vehemently opposes the prayer made on behalf of the petitioner while submitting that petitioner being fully conscious of the pendency of the FIR against him, chose not to appear before the trial Court and thus, was rightly declared as proclaimed person, therefore, impugned order warrants no interference.

5. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

6. Perusal of record shows that proclamation under Section 82 Cr.P.C. was initially ordered against the petitioner on 11.05.2023 for 20.07.2023. On the said date i.e. 20.07.2023, the proclamation was not received back, as such, fresh proclamation was again issued for 07.10.2023 and the Executant Police Officer/process server was directed to effect the same on or before 30.08.2023 and the petitioner was declared as proclaimed person vide order dated 07.10.2023, which nowhere mentions as to when the proclamation under Section 82 Cr.P.C. was effected against the petitioner and nothing has even been said about the proclamation having been published in consonance with sub-Section 2 of Section 82 Cr.P.C., thus, the impugned order dated 07.10.2023 being short of all the necessary details as enjoined under Section 82 Cr.P.C., is unsustainable in law.

7. Moreover, the petitioner is even willing to surrender before the trial Court and face/join the proceedings, besides it, learned counsel for the petitioner, on instructions from his client submits that he volunteers to deposit a cost of Rs.10,000/- with the Nishkam Sewa Group (For Charitable Work) run by Punjab & Haryana High Court Lawyers at Chandigarh.

8. In view of the above, the present petition is allowed. Order

dated 07.10.2023 is set aside. Petitioner is directed to surrender before the Trial Court within a period of 07 days from today and furnish his fresh bail/surety bonds, which shall be accepted, subject to its satisfaction. Till then, no coercive steps be taken against the petitioner.

9. The aforesaid order shall be subject to payment of costs of Rs.10,000/- as volunteered by the petitioner, with the Nishkam Sewa Group (For Charitable Work) run by Punjab & Haryana High Court Lawyers at Chandigarh, within a period of one week from today. The receipt of the aforesaid deposit shall be produced by the petitioner at the time of submissions of his bail/surety bonds before the Trial Court/Duty Magistrate.

10. All the pending applications, if any, stand disposed of.

23.05.2024
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(HARKESH MANUJA)
JUDGE

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