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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-28739-2024
Date of decision : 31.05.2024

RAJ KUMAR

....PETITIONER

Versus

STATE OF HARYANA

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present : Mr. Sandeep Kumar, Advocate and
Mr. Dhananjay Singh, Advocate
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

HARKESH MANUJA.J. (ORAL)

1 By way of present petition, prayer is made for setting aside of the order dated 06.02.2023, passed by the Court of Judicial Magistrate 1st Class Sirsa, whereby the petitioner was declared as proclaimed person having been implicated in FIR No.14 dated 16.01.2015 under Section 25 of the Arms Act 1959, registered at Police Station Ding, District Sirsa.

2. The petitioner was granted concession of regular bail on 23.12.2022. Later on, on account of his non-appearance, he was declared as proclaimed person.

3. Learned counsel for the petitioner submits that declaration of petitioner as proclaimed person was not in consonance with the mandate of Section 82 of the Code of Criminal Procedure and thus was unsustainable in



law. Non-appearance of the petitioner was not intentional but due to the fact that no details with regard to initiation of proceedings conducted under Section 82 Cr.P.C have ever been disclosed and the impugned order being not speaking is liable to be set aside. He also points out that on the same day, the petitioner was granted the concession of anticipatory bail in this FIR by the Court of learned Additional Sessions Judge, Sirsa (Annexure P-2). Besides, the petitioner is willing to face trial and also informs that the co-accused namely Sonu stands acquitted vide judgment dated 06.07.2023 passed by Additioal Sessions Judge Sirsa.

4. After hearing learned counsel for the parties and going through the paper book, I find substance in the submissions made on behalf of the petitioner.

5. A perusal of record shows that order dated 06.02.2023 declaring the petitioner as proclaimed person has been passed in a casual manner without even mentioning the date on which proclamation under Section 82 Code of Civil Procedure was effected. Besides no mandatory steps in terms of Sub Section (2) of Section 82 Cr.P.C either regarding publication of the proclamation or affixation of notice at the house of the petitioner have been mentioned therein. Moreover, in the instant case, the petitioner on the same day was granted the concession of anticipatory bail by the Additional Sessions Judge Sirsa, in the same FIR and one of the co-accused namely Sonu already stands acquitted and the petitioner is even willing to face the trial.

6. In view of the cumulative facts and circumstances mentioned hereinabove, present petition is allowed and order dated 06.02.2023, passed

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by the Court of Judicial Magistrate 1st Class Sirsa declaring petitioner as proclaimed person is quashed subject to the petitioner surrendering before the trial Court within a period of two weeks from today and subject to his furnishing adequate bail bonds and surety bonds which shall be accepted by the concerned Court.

(HARKESH MANUJA)
JUDGE

31.05.2024
monika

Whether speaking/reasoned:- Yes/No
Whether Reportable:- Yes/No