

2024:PHHC:078978



**142 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-28791-2024
Decided on:-31.05.2024**

GeetaPetitioner..

vs.

State of PunjabRespondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Narinder S. Lucky, Advocate,
for the petitioner.

Mr. Siddharth Sandhu, AAG, Punjab.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for setting aside the order dated 06.02.2024 passed by learned Judge, Special Court, Kapurthala, whereby the petitioner was declared as proclaimed offender.

2. Having been implicated in FIR No.149 dated 22.06.2019, registered under Section 22 of the NDPS Act, 1985 at Police Station City Phagwara, District Kapurthala, petitioner was granted the concession of regular bail in the year 2020 and since then she was regularly appearing before the trial Court. However, on 31.05.2022, the petitioner failed to appear before the trial Court, resulting into cancellation of her bail and forfeiture of bail bonds as well as surety bonds to the State followed by issuance of non-bailable warrants against her vide order dated 31.05.2022

and ultimately, on 06.02.2024, she was declared as proclaimed offender.

3. Learned counsel for the petitioner submits that proclamation under Section 82 Cr.P.C. was issued against the petitioner vide order dated 14.07.2023 for 17.11.2023, however, on the said date i.e. 17.11.2023 as the statutory period had not elapsed, the proceedings were adjourned for 06.02.2024, when on account of her non-appearance, she was declared as proclaimed offender. He further submits that the proclamation proceedings were in violation of Section 82 Cr.P.C. as there was no proclamation ordered for 06.02.2024. As such, the impugned order is unsustainable in the eyes of law.

4. Notice of motion.

5. Mr. Siddharth Sandhu, AAG, Punjab accepts notice on behalf of the respondent-State and vehemently opposes the prayer made on behalf of the petitioner while submitting that the non-appearance of the petitioner before the trial Court was just to cause delay and thus, the impugned order warrants no interference.

6. 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.

7. Perusal of record shows that vide order dated 14.07.2023, proclamation under Section 82 Cr.P.C. was issued for 17.11.2023, however, by the said date, the statutory period of 30 days had not elapsed and thus, the declaration of the petitioner as proclaimed person on 06.02.2024 on account of her non-appearance, was wholly uncalled for. As a matter of fact, the case was adjourned for 06.02.2024 for awaiting presence of accused and as such, in the absence thereof, the petitioner could not have been declared as

proclaimed person on 06.02.2024

8. Moreover, learned counsel for the petitioner on instructions from his client submits that the petitioner is ready to surrender herself to the jurisdiction of the trial Court within a period of 15 days from today and apply for grant of regular bail, besides it, she even volunteers to serve public cause by providing one patient bed to Civil Hospital, Kapurthala.

9. In view of the discussion made herein above, the present petition is allowed. Order dated 06.02.2024, declaring the petitioner as proclaimed offender and all other subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

10. The aforesaid order, however, shall be subject to surrendering the petitioner before the trial Court and shall apply for grant of regular bail, beside it, the petitioner shall provide one (01) patient bed to the Civil Hospital, Kapurthala, within a period of 15 days from today as volunteered by the petitioner against due receipt issued by the concerned Civil Surgeon, who shall prepare an inventory in this regard for its regular inspection by the Director concerned. A copy of the receipt shall also be sent to the office of Advocate General, Punjab at the earliest for maintaining records in this regard.

31.05.2024

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No