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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30903-2023 (O & M)
Date of Decision:09.05.2024

Gurbir Singh @ Guri
... Petitioner
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. H.P. Singh, Advocate,
for the petitioner(s).

Ms. Gur Amrit Kaur, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of order dated 22.07.2014 passed by the Judicial Magistrate Ist Class, Kharar, District SAS Nagar (Annexure P-4) vide which the petitioner has been declared a proclaimed offender.

2. The brief facts of the case are that FIR No.91 dated 17.03.2019 under Sections 379, 411, 473, 171 IPC and Section 25 of the Arms Act, Police Station Kharar, District SAS Nagar, came to be registered against Gurbir Singh @ Guri (petitioner), Jasbir Singh @ Rana, Amit Kumar, Jimmi @ Jhatta and Gurpreet Singh @ Laddi on the basis of secret information.

3. Pursuant to the registration of the FIR, a *naka* was laid and a Silver Esteem car was seen coming from the front. It was signalled to



stop. The driver of the car disclosed his name as Gurbinder Singh @ Gurbir Singh @ Guri and the other occupants of the car disclosed their names as Jimmi @ Jhatta and Amit Kumar. From the search of the car, one light blue beacon, two swords, two datts, fake number plate bearing No.PB-10-S-9787 and blue beacon were recovered and were taken into police possession. Gurbir Singh @ Guri, Jimmi @ Jhatta and Amit Kumar were arrested on 17.03.2009. The other accused came to be arrested on 09.06.2010. The report under Section 173(2) Cr.P.C. was presented on 27.10.2012 before the Court of competent jurisdiction under Sections 379, 411, 473 IPC and Section 25 of the Arms Act. However, Gurpreet Singh @ Laddi was declared a proclaimed offender vide order dated 31.10.2011 i.e. before the presentation of the challan.

4. As the petitioner was absconding pursuant to the grant of bail, he was declared a proclaimed offender on 22.07.2014. Meanwhile, the Trial proceeded against co-accused, namely, Jasbir Singh @ Rana, Amit Kumar and Jimmy @ Jhatta who were acquitted vide a judgment dated 27.10.2017 (Annexure P-8) passed by the Judicial Magistrate Ist Class, Kharar.

5. The instant petition has been filed challenging the order dated 22.07.2014 (Annexure P-4) passed by the Judicial Magistrate Ist Class, Kharar, whereby the petitioner was declared a proclaimed offender.



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6. The learned counsel for the petitioner contends that there has been a violation of Section 82 Cr.P.C. The proclamation was issued on 28.04.2014 for 24.05.2014 and therefore, a clear period of 30 days had not been provided for appearance. In fact, the petitioner had been arrested in other cases in which cases he remained in custody and was facing Trial. It was in that situation that he was unable to appear and therefore, declared a proclaimed offender. He, therefore, contends that the impugned order (Annexure P-4) was liable to be quashed.

7. The learned counsel for the State, on the other hand, contends that the petitioner was arrested on 17.03.2009, granted bail and only then proclamation order was issued on 28.04.2014. Therefore, he was aware of the pendency of the FIR in which he stood arrested and was granted bail. It did not lie in his mouth to show that 30 days clear period had not been given to him to appear in the Court. Further, the pendency of other cases or his incarceration in those cases was of little relevance. The instant petition had been filed only in July, 2023 much after proceedings had culminated in the other cases registered against him. Even otherwise, nothing prevented him from appearing in the proceedings emanating out of the present FIR No.91 dated 17.03.2009, even though, he was in custody in other cases. Quite apparently, the attempt was to evade the process of the law.

8. I have heard the learned counsel for the parties.



9. A perusal of the record would reveal that the petitioner was arrested on 17.03.2009, was granted bail and was declared a proclaimed offender on 22.07.2014. The contention of the petitioner that 30 days' clear notice was not given to him is belied from the record inasmuch as the proclamation was issued on 28.04.2014 for 24.05.2014 but the order declaring the petitioner a proclaimed offender was passed only on 22.07.2014. Therefore, the petitioner had ample opportunity to appear before the concerned Court. Needless to say, the petitioner was aware of the pendency of the FIR in question, he having been arrested and having been released on bail thereafter. Further, merely because he was an accused in other cases and in custody in some of those cases did not in any manner, prevent the petitioner from joining the proceedings arising out of the present FIR No.91 dated 17.03.2009. In fact, he could have very well been taken on production warrants to face Trial in the instant case. He, however, for obvious reasons chose not to do so leading to the passing of the impugned order dated 22.07.2014. In fact, this petition itself has been filed 09 years after the petitioner was declared a proclaimed offender.

10. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

May 09, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No