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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33119-2023

Date of Decision: 17.09.2024

Kamaljit @ Kambi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

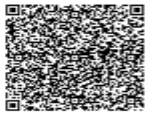
Present:-. Mr. M.S. Saini, Advocate for
Mr. Neeraj Gupta, Advocate
for the petitioner.

Mr. Ravinder Singh, AAG Punjab

KIRTI SINGH, J.(Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of proclamation order dated 24.12.2011 (Annexure P-1) passed by learned SDJM, Garhshankar in case bearing No. CIS 215/2013 titled as *State vs. Kamaljit Singh and another*.

2. Learned counsel for the petitioner submits that the petitioner was accused in FIR No. 45 dated 07.03.2010 registered under Sections 186, 506, 511 IPC and Section 68(1)(B), 63, 58 of Police Act at Police Station Garhshankar. The petitioner had left for Italy on 30.07.2011 and thereafter proclamation proceedings under Section 82 Cr.P.C. were initiated against him and the petitioner was declared proclaimed offender vide order dated 24.12.2011. He further submits that he was never served at his foreign address and there is non-compliance of Section 82 and



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105 Cr.P.C. He also submits that the other four co-accused have been acquitted by the learned trial Court.

3. Learned State counsel vehemently opposed the prayer and submits that learned trial Court has rightly declared the petitioner as proclaimed offender. He, however, admits the fact that petitioner has surrendered before learned trial Court and has been released on regular bail vide order dated 21.07.2023.

4. Vide order dated 13.07.2023, the petitioner was directed to appear before the trial Court and move an application for regular bail. Learned counsel has supplied order dated 21.07.2023 passed by learned trial Court whereby the petitioner in compliance of order dated 13.07.2023 has surrendered and has been released on regular bail. He also submits that the petitioner is ready to appear before the trial Court and abide by all the terms and conditions as may be imposed upon them by the trial Court.

5. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

6. In view of the above, the present petition is allowed and order dated 24.12.2011 (Annexure P-1) is hereby set aside/quashed **subject to payment of cost of Rs.10,000/- by the petitioners to be deposited with the Poor Patient Welfare Fund, PGIMER Chandigarh** within a period of 15 days from today.

17.09.2024
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(KIRTI SINGH)
JUDGE