

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41602-2021
DECIDED ON 14.05.2024

KULDEEP SINGH @ JORA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Suneet Pal Singh Aulakh, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked for quashing of impugned order dated 20.10.2005 (Annexure P-1) passed by Judicial Magistrate Ist Class, Nakodar, whereby the petitioner was declared as proclaimed offender in case having FIR No.45 dated 07.02.2005, under Sections 323, 325, 34 of IPC, registered at Police Station Nakodar, District Jalandhar.
2. It has been contended by learned counsel for the petitioner that the petitioner is not involved in the incident and the complainant has falsely implicated in the present case. In fact, the petitioner was resident of Canada and came to India only to attend the marriage of his cousin and in order to create pressure upon the uncle's family of the petitioner, name of five persons were given including the petitioner. It is further contended that the petitioner was not aware of the legal proceedings and thus, could not engage any counsel under the belief that compromise has been effected between the parties.

3. It is submitted on behalf of the petitioner that proclamation under Section 82 Cr.P.C. issued against the petitioner is not as per law as the petitioner is permanent resident of Canada and he came to know about the registration of the aforesaid FIR only when he visited India to attend the marriage of his cousin. It is further submitted that petitioner is ready and willing to surrender before the trial Court.

4. Learned State counsel submits that petitioner has been rightly declared proclaimed offender by following a proper procedure under Section 82 Cr.P.C.

5. Heard, learned counsel for the parties.

6. This Court is sanguine of the fact that it will only speed up the proceedings before the Trial Court which is one of the essence as enshrined under Article 21 of the Constitution of India and in view of the undertaking given by counsel for the petitioner, this petition is allowed and order dated 20.10.2005 passed by Judicial Magistrate Ist Class, Nakodar is hereby quashed.

7. The petitioner is directed to surrender before the trial Court within a period of one month from today. In case, the petitioner moves an application seeking bail before the Court below, the same shall be considered and decided on the same date in accordance with law.

8. However, it is made clear that in case the petitioner does not abide by the aforesaid undertaking, the respondent/State shall be at liberty to move an appropriate application for revival of the instant petition.

9. There is no denial to the fact that due to petitioner's act, delay has occurred in trial proceedings and has caused prejudice to the other side and to compensate the delay which is caused by the petitioner alone, he is directed to

deposit costs of Rs.50,000/- with the Bharat Vikas Parishad Charitable Trust, Sector 12-A, Panchkula and a receipt of the same be produced before the Court below and only in that eventuality, application of the petitioner seeking bail be considered and decided on the same day.

10. Ordered accordingly.

14.05.2024
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(SANDEEP MOUDGIL)
JUDGE

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