



CRM-M-35983-2024

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-35983-2024

Date of decision: 14.10.2024

Varinder Kumar @ Beeba Fruit Wala**....Petitioner****Versus****State of Punjab****....Respondent****CORAM: HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Present: Mr. Gurvinder Singh Aulakh, Advocate
for the petitioner.

Mr. Kewal Singh, Addl.A.G. Punjab.

AMARJOT BHATTI, J (Oral):

1. Petitioner-Varinder Kumar @ Beeba Fruit Wala has filed the present petition under Section 482 Cr.P.C. for quashing of impugned order dated 10.01.2024 (Annexure P-3) passed by the Learned Sub-Divisional Judicial Magistrate, Gidderbaha in FIR No.77 dated 04.06.2018 under Sections 295, 295-A, 323 and 149 IPC registered at Police Station Gidderbaha, District Sri Muktsar Sahib, (Annexure P-1) in which he has been declared proclaimed person with the prayer for setting aside the aforesaid order or any other direction which Court may deem fit and proper in the given facts and circumstances of the case.

2. Learned counsel for the petitioner argued that the petitioner is falsely implicated in the FIR No.77 dated 04.06.2018 under Sections 295, 295-A, 323. and 149 IPC registered at Police Station Gidderbaha District Sri Muktsar Sahib (Annexure P-1). He was not named in the FIR and later on vide DDR No. 44, dated 07.06.2018 after delay of more than one month, he was named. All other co-accused are on bail and present petitioner is also



pending against him and he was not aware of the fact that challan has been presented in the aforesaid FIR. He has placed on record copies of zimni orders Annexure P-2. Challan was presented on 01.06.2022 and ultimately he was declared proclaimed person. He was never personally served. As per the report on the warrants, his shop was closed. Impugned order dated 10.01.2024 is not on sound footing. Trial is at initial stage and petitioner is ready to abide by the terms of order passed by this Court. He had filed anticipatory bail application before Learned Sessions Court, Sri Mukatsar Sahib which was declined vide order dated 01.07.2024 (Annexure P-6) without appreciating the material on record. It is submitted that impugned order dated 10.01.2024 may kindly be set aside by granting him the relief of bail.

3. Petition is opposed by learned counsel representing State. As per the status report, present petitioner avoided the process of Court and his presence could not be procured and ultimately he was declared proclaimed person vide order dated 10.01.2024. Petitioner had filed anticipatory bail application before Learned Sessions Court, Sri Mukatsar Sahib which was decided on 01.07.2024 (Anneuxre P-6) and it was directed that petitioner shall surrender before the Learned trial Court and his bail application was to be decided at the earliest. Even then, petitioner did not appear before the trial Court and filed the present petition. Challan in this case has been presented before Sub-Divisional Judicial Magistrate on 06.04.2022 and the case is pending for prosecution evidence.

4. I have considered the factual position as referred above. Present petitioner is involved in FIR No.77 dated 04.06.2018 under Sections 295, 295-A, 323 and 149 IPC registered at Police station Gidderbaha, District Sri Muktsar Sahib, (Annexure P-1).

5. Perusal of zimni orders annexed as Annexure P-2 and Annexure



Magistrate to procure presence of present petitioner along with other accused by issuing non-bailable warrants of arrest. At one occasion, process was received back with the report that shop of present petitioner was lying closed and his nephew had disclosed that petitioner had gone to meet his relative. Ultimately, proclamation proceedings were initiated under Section 82 Cr.P.C. vide order dated 11.09.2023 and ultimately he was declared proclaimed person vide order dated 10.01.2024. After passing of impugned order, present petitioner filed application for anticipatory bail on 21.06.2024 which was disposed of vide order dated 01.07.2024. Copy of said order is Annexure P-6. As per this order, present petitioner was directed to surrender before the trial Court within seven days from the date of passing of order and trial Court was further directed to dispose of his regular bail application at the earliest. Instead of complying with the aforesaid order, present petition has been filed. Firstly, petitioner avoided the process of law and when he was declared proclaimed person, he filed anticipatory bail application. Conduct of petitioner shows that he was fully aware of the process which was going on in the aforesaid FIR. Even after passing of order dated 01.07.2024 Annexure P-6 petitioner did not opt to surrender before the learned Trial Court to get the relief of regular bail.

6. Considering the factual position, I do not find any merit in the petition filed by the petitioner and the same is accordingly declined.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(AMARJOT BHATTI)
JUDGE

14.10.2024
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