

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-39882-2023
Date of decision: 05.02.2024

Ajay KumarPetitioner.

Versus

The State of PunjabRespondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Pankaj Kumar, Advocate,
for Mr. B.S. Kathuria, Advocate,
for the petitioner.

Ms. Navreet Kaur Barnala, AAG, Punjab.

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SANJIV BERRY, J. (ORAL)

1. By way of instant petition preferred under Section 482 Cr.PC, the petitioner has sought quashing of the impugned order dated 12.01.2023, passed by learned Judicial Magistrate Ist Class, Jalandhar, in case *CHI 301-2018* titled as *State vs. Abhijit Kumar* in case FIR (Annexure P-1), whereby the petitioner had been declared proclaimed person. Details of the FIR are as under: -

FIR No.	Dated	Sections	Police Station
73	22.07.2018	323, 325, 34 IPC	P.S. Bilga, Jalandhar Rural

2. Learned counsel for the petitioner submits that in compliance to the order dated 22.11.2023, the petitioner has joined the investigation and has already appeared before the learned Trial Court. Besides, he has also deposited the cost of Rs. 15,000/-, so imposed, vide the aforesaid order dated 22.11.2023.
3. During the course of hearing on 22.11.2023, following order had been passed: -

‘Counsel for the petitioner submits that the petitioner was released on regular bail by order dated 01.11.2018 in FIR No.73 dated 22.07.2018 lodged for offence under Sections 323, 325 and 34, IPC, 1860, P.S. Bilga, District Jalandhar Rural, Annexure P-1. Counsel submits that the petitioner left for U.A.E. in October, 2021, but he could not return as the travel agent defrauded him. He has made a reference to the photocopy of the passport appended as Annexure P-5 to submit that the petitioner reached back on 16.07.2023. By inviting the attention of the Court to interim order dated 25.05.2022, Annexure P-4 (at page 64 of the paper-book), he urges that despite the fact that it was to the notice of the Trial Court that the petitioner is abroad, no attempt was made to serve him through the Ministry of External Affairs and the Court straightaway initiated the process under Section 82, Cr.P.C. Still further, it is his argument that the proclamation was effected on 28.07.2022 for appearance on 06.08.2022 and a clear 30 days notice was not given to the petitioner to appear. He has placed reliance upon the judgments of this Court in *Ashok Kumar Vs. State of Haryana 2013(4) R.C.R. (Criminal) 550* and *Anita Sharma Versus State of*

Punjab (CRM-M- 25088-2021 decided on 16.7.2021). Counsel submits that the petitioner, who is in India, is prepared to surrender before the Trial Court and join the proceedings, subject to any condition imposed by this Court.

Advance copy of the petition has been served upon the State.

Upon instructions, State counsel submits that as a consequence of the impugned order, FIR under Section 174-A, IPC, has been registered against the petitioner.

List on 16.01.2024.

Let the petitioner surrender before the Trial Court and join the proceedings within a fortnight from today. In case, he does so and moves an appropriate application, Trial Court shall release him on bail, subject to furnishing bail/surety bonds to its satisfaction. This will be subject to deposit of cost of Rs.15,000/- with the Poor Patient Welfare Fund, PGIMER, Sector 12, Chandigarh, which shall be a pre-condition to the release of the petitioner on bail.

The receipt of deposit of cost shall be furnished by the petitioner before the Trial Court on the day, he surrenders.'

4. Learned State counsel on instructions from ASI Darbara Singh, has not disputed the aforesaid fact.

5. Keeping in view the above submissions made by learned State counsel and the fact that the petitioner had joined the investigation consequent to the order dated 22.11.2023 passed by this Court, interim bail granted vide order dated 22.11.2023 is hereby confirmed. Further the petitioner is directed to join investigation as and when required in

future by way of written notice for such purpose to be served by Investigating Officer/Trial Court upon the petitioner; he will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

6. With these observations, impugned order dated 12.01.2023 passed by learned Judicial Magistrate Ist Class, Jalandhar, (Annexure P-6) vide which the petitioner had been declared proclaimed person is set aside and the instant petition stands allowed.

7. It is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

05.02.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |