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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43779-2024

Date of decision: 10.12.2024

Gurbakshish Singh

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Gulzar Mohammed, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Amrit Singh Kang, Advocate
for respondent No.2.**HARPREET SINGH BRAR, J. (ORAL)**

The present petition has been filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking quashing of order dated 14.01.2015
(Annexure P-6) vide which the petitioner has been declared as proclaimed
absconder in FIR No.2 dated 15.02.2014 under Sections 406/498-A/420 of IPC,
P.S. NRI Ludhiana along with all consequential proceedings.

On 06.09.2024, the following order was passed:-

*'The present petition has been filed under Section 528 of
Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of order
dated 14.01.2015 (Annexure P-6) vide which the petitioner has been
declared as proclaimed absconder in FIR No.2 dated 15.02.2014 under
Sections 406/498-A/420 of IPC, P.S. NRI Ludhiana.*

*Learned counsel for the petitioner inter alia contends that the
petitioner went to Canada in the year 2011 and a matrimonial dispute
took place between the petitioner and his wife, thereafter, the petitioner
sent a legal notice for divorce as his wife refused to join him in Canada
and as a counter-blast, the FIR in question was registered against the
petitioner while he was residing in Canada. He further submits that
without following the drill of Section 82 Cr.P.C., the petitioner has been
declared as proclaimed offender. Further, no effort has been made to
serve the petitioner by way of substitute service through the concerned
embassy and the petitioner has not visited India since the registration*



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of FIR. It is further submitted that the co-accused, after suffering the trial, has been acquitted. He relies upon the judgment of this Court passed in 'Major Singh @ Major Vs. State of Punjab' 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506.

Notice of motion for 10.12.2024.

In the meantime, operation of the impugned order dated 14.01.2015 (Annexure P-6) shall remain stayed and the petitioner is directed to surrender before the learned trial Court within a period of 08 weeks from today and on his doing so, he shall be admitted to interim bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court.'

Learned counsel for the petitioner submits that in compliance of aforementioned order, the petitioner has already put in appearance before the learned trial Court and furnished his bail bonds to the satisfaction of the learned Judicial Magistrate 1st Class, Ludhiana vide order dated 25.09.2024 and further undertakes to attend the trial on each and every date.

The learned State counsel appears and affirms the fact that the petitioner has surrendered before the trial Court and furnished his bail bonds to its satisfaction.

I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.



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In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 14.01.2015 (Annexure P-6) vide which the petitioner was declared as proclaimed absconder along with all consequential proceedings, is hereby set aside.

(HARPREET SINGH BRAR)
JUDGE

10.12.2024
Neha

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