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

CRM-M-45592-2024

Date of Decision: September 16, 2024

SUKHCHAIN SINGH

....Petitioner(s)

VERSUS**STATE OF PUNJAB**

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanjeev Kumar, Advocate for
Mr. Jitender Singh Dadwal, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J.(ORAL)

1. The jurisdiction of this Court has been invoked under Section 528 Bhartiya Nagrik Suraksha Sanhita, 2023 for seeking quashing/setting aside of the order dated 20.02.2024 (Annexure P-4) passed by Chief Judicial Magistrate, Sangrur, in case FIR No.0195 dated 08.12.2021 under Sections 420 IPC Act, 1860 registered at Police Station City 1 Sangrur, Sangrur, Punjab, whereby petitioner has been declared proclaimed person due to non appearance before the Chief Judicial Magistrate, Sangur.

2. Learned counsel for the petitioner submits the petitioner was in jail since 26.12.2011 till December, 2022, wherein the police neither adopted any legal procedure nor the local police was aware that the



petitioner was in jail at the time of registration of present FIR and hence he could not put in appearance on the stipulated date. Accordingly, the trial Court vide order dated 20.02.2024 declared the petitioner as proclaimed person. Learned counsel for the petitioner undertakes that the petitioner will surrender before the trial Court and shall join the trial proceedings without any delay or default in future.

3. Examination of the zimni orders placed along with the petition on Annexure P-3 (collectively) would depict that the proclamation was issued against the petitioner-accused Sukhchain Singh vide order dated 23.01.2024 for 20.02.2024 which is less than the period of 30 days and finally vide order dated 20.02.2024 itself, he has been declared as proclaimed person.

4. Notice of motion.

5. On the asking of the Court, learned State Counsel accepts notice on behalf of the respondent-State, who is not in a position to controvert the said fact that statutory period of 30 days has not been adhered to by the trial Court as the mandate of Section 82 Cr.P.C. prior to declaration of any accused as proclaimed person/proclaimed offender.

6. The said position has also been enunciated in ***Dilbagh Singh versus State of Punjab, 2015 (8) RCR (Criminal) 116***, whereby it is held as under:-

“That procedure for publication of proclamation has not been followed and therefore order declaring person



proclaimed offender set-aside and in the present case also no effort was made to serve the petitioner and even 30 days' time to appear before the trial court has not been given, therefore order declaring petitioner as proclaimed offender is liable to be quashed.”

7. The Hon’ble Supreme Court in another case titled as ***Gurpreet Singh versus State of Punjab, reported as 2022(4) RCR (Criminal) 856*** has held as under:

“It is apparent that a clear period of 30 days w.e.f the date, when proclamation was actually affected up to the date nominated for causing appearance, was not afforded to the petitioner-It is only a period of 26 days, which was afforded, thus order under challenge cannot sustain, hence liable to be set-aside”.

Order dated 20.02.2024 is hereby ordered to be quashed.

8. Considering the submissions made by learned counsel and also in appreciation 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, the petitioner is directed to surrender before the trial Court within a period of 10 days from receiving the certified copy of this order and apply for regular bail

9. In case, such an application for bail is moved by the petitioner before the learned trial Court, the same shall be considered on the same date and decided in accordance with law.



10. 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.

11. The instant petition is disposed of in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

16.09.2024
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Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No