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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-50277-2023

Date of Decision: 28.05.2024

GURBHEJ SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Amit Arora, Advocate for the petitioner.

Mr. Japjot Singh, AAG, Punjab.

SANJIV BERRY, J. (ORAL)

The instant petition under Section 482 CrPC has been filed by the petitioner seeking quashing of the impugned order dated 09.06.2016 (Annexure P-4) passed by learned Chief Judicial Magistrate, Tarn Taran vide which the petitioner was declared as Proclaimed Offender in the criminal Complaint No.187 of 2011 dated 28.04.2011 under Sections 307, 353, 186, 427 and 34 IPC titled as 'Ram Singh Vs. Balkar Singh and others'.

2. Learned counsel for the petitioner *inter alia* contends that in compliance of the order dated 05.10.2023, petitioner appeared before the learned trial Court and furnished requisite bail bonds and surety bonds and after accepting the same release order of the petitioner has been issued vide order dated 09.10.2023 passed by the learned Chief Judicial Magistrate, Tarn Taran. He contends that since the petitioner has joined the trial Court proceedings, as such the order dated 09.06.2016 (Annexure P-4) passed by learned Chief Judicial Magistrate, Tarn Taran whereby the petitioner was



declared as proclaimed offender, be quashed.

3. Learned State counsel has not disputed the aforesaid factual matrix of the case and submits that petitioner appeared on 09.10.2023 before the learned trial Court and furnished requisite bail bonds.

4. Heard.

5. During the course of the proceedings, following order was passed on 05.10.2023:-

1. The present petition under Section 482 CrPC has been preferred by the petitioner seeking quashing of the impugned order dated 09.06.2016 (Annexure P-4) passed by learned Chief Judicial Magistrate, Tarn Taran vide which the petitioner was declared as Proclaimed Offender in the criminal Complaint No.187 of 2011 dated 28.04.2011 under Sections 307, 353, 186, 427 and 34 IPC titled as 'Ram Singh Vs. Balkar Singh and others'.

2. It is, inter alia, contended by learned counsel for the petitioner that the petitioner having been summoned in the aforesaid complaint was granted bail and thereafter due to unavoidable circumstances, he could not appear in Court on 24.09.2015, resulting in cancellation of his bail and issuance of non-bailable warrants for his service. He submits that the absence of the petitioner was due to the fact that he had been a drug addict and was admitted in de-addiction Centre. He submits that subsequently vide the impugned order dated 09.06.2016, the petitioner has been declared proclaimed offender in the case by the learned trial Court without following the procedure laid down under Section 82 CrPC. He further submits that even on the basis of the impugned order, an FIR No.72 dated 25.10.2017 under Section 174-A IPC was also registered at Police Station Sarai Amanat Khan, wherein he was arrested and produced in Court and subsequently convicted vide judgment dated 12.02.2020 (Annexure P-6). However, despite the petitioner being arrested in this case, the Police did not produce him in Court in the present complaint. He further submits that co-accused had already been acquitted in the case by the learned CJM, Tarn Taran vide judgment dated 04.07.2017.

3. Notice of motion.

4. On the asking of the Court, Ms. Swati Batra, DAG Punjab accepts notice on behalf of respondent-State.

5. On the oral request of learned counsel for the petitioner to



implead the complainant-Ram Singh as respondent No.2, the same is allowed. Learned counsel has placed on record the amended memo of parties. Registry is directed to tag the same at appropriate place.

6. *Notice be issued to respondent No.2 for 07.11.2023.*
7. *In the meanwhile, petitioner is directed to surrender before the Trial Court/Duty Magistrate concerned, within a period of 07 days from today. In that event, he is ordered to be released on interim bail on his furnishing personal/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. The petitioner will also furnish a specific undertaking that in future he will appear on each and every date of hearing without fail and only in case of extreme exigency will he seek exemption from the Court in accodance with law. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C”*

6. Keeping in view the fact that the petitioner has already appeared on 09.10.2023 before the learned trial Court and furnished his requisite bail/surety bonds consequent to the order dated 05.10.2023, passed by this Court, the present petition is allowed, and order dated 09.06.2016 (Annexure P-4), passed by learned Chief Judicial Magistrate, Tarn Taran, whereby the petitioner was declared as proclaimed offender is hereby set aside and the interim bail granted vide order dated 05.10.2023 is hereby confirmed.

7. The Petition stands allowed.

(SANJIV BERRY)
JUDGE

28.05.2024

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | Yes |