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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-48882-2024 (O&M)  
Date of decision: 01.10.2024

Jashanjot Singh @ Jashan

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Bhupinder Singh Kundra, Advocate  
for the petitioner.

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HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 528 of Bharatiya  
Nagarik Suraksha Sanhita, 2023 for quashing of the order dated 04.08.2023  
(Annexure P-6) passed by learned Sub Divisional Judicial Magistrate,  
Amloh, vide which the petitioner was declared as proclaimed offender and  
the orders dated 12.06.2022 (Annexure P-5) and the order dated 05.01.2023  
(Annexure P-4), vide which bail of the petitioner was cancelled and  
bail/surety bonds were forfeited to the State and non-bailable warrants were  
issued against him along with notice to the surety as well as for quashing of  
FIR No.38 dated 04.03.2021 under Sections 354, 341, 323, 506, 427, 148 of

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the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Mandi Gobindgarh, District Fatehgarh Sahib and all the consequential proceedings emanating therefrom, on the basis of compromise dated 08.08.2024 and 16.09.2024 (Annexures P-7 & P-8).

2. Learned counsel for the petitioner wishes to withdraw the present petition qua the prayer for quashing of FIR (*supra*) on the basis of compromise at this stage and confines his prayer to quashing of the impugned order dated 04.08.2023 (Annexure P-6), vide which the petitioner was declared as proclaimed offender and the orders dated 12.09.2022 (Annexure P-5) and 05.01.2023 (Annexure P-4), vide which bail of the petitioner was cancelled and bail/surety bonds were forfeited to the State and non-bailable warrants of arrest against the petitioner along notice to the surety were issued. He seeks liberty to approach this Court again in case the order dated 04.08.2023 (Annexure P-6), declaring the petitioner as proclaimed offender and the orders dated 12.09.2022 (Annexure P-5) and 05.01.2023 (Annexure P-4), are quashed.

3. In view of the above, present petition qua the prayer for quashing of FIR (*supra*) is dismissed as withdrawn with liberty aforesaid.

4. Learned counsel for the petitioner contends that after registration of FIR (*supra*), the petitioner was granted the concession of anticipatory bail by learned Sessions Judge, Fatehgarh Sahib vide order dated 18.03.2021 (Annexure P-2) and thereafter, he went abroad, as

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respondents No.2 & 3 agreed to compromise the matter with all the accused in FIR (*supra*) and on 05.01.2023, a compromise (Annexure P-3) was effected between the parties. He further contends that challan was presented on 31.08.2021 and the petitioner was under the impression that FIR (*supra*) stands quashed on the basis of compromise (Annexure P-3), therefore, he could not appear before learned trial Court. He also contends that on account of his non-appearance, learned trial Court, vide order dated 12.09.2022 (Annexure P-5), cancelled the bail of the petitioner and his bail/surety bonds were forfeited to the State and notice to the surety was issued and vide order dated 05.01.2023 (Annexure P-4), non-bailable warrants of arrest were issued against the petitioner and proclamation under Section 82 Cr.P.C. was also issued. Thereafter, vide impugned order dated 04.08.2023 (Annexure P-6), learned trial Court declared the petitioner as proclaimed person and the intimation was further sent to SHO concerned to facilitate him to lodge an FIR against the proclaimed person for commission of offence under Section 174-A IPC. Aggrieved by the impugned orders (Annexure P-4, P-5 & P-6), the petitioner has approached this Court by way of instant petition.

5. Learned counsel for the petitioner submits that non-appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the said orders, he has approached this Court by way of instant petition. The impugned order (Annexure P-6) is liable to be set aside on the ground that the mandate of Section 82 Cr.P.C. has not been followed in its letter and



spirit by learned trial Court and the petitioner has been declared as proclaimed person on 04.08.2023. In support of his arguments, learned counsel for the petitioner relies upon the judgment passed by this Court in ***Sonu Vs. State of Haryana, 2021 (1) RCR (Cri.) 319*** and the judgment passed by the Gujarat High Court in ***Govindbhai Patel Vs. State of Gujarat, 2004 (4) RCR (Criminal) 830***.

6. Notice of motion.

7. Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court accepts notice on behalf of respondent No.1-State and supports the orders passed by learned trial Court by contending that the petitioner did not put in appearance before learned trial Court intentionally and deliberately and, therefore, having left with no other option, his bail was cancelled and bail/surety bonds were forfeited to the State and non-bailable warrants were issued and thereafter, proclamation was issued to secure his presence.

8. Mr. Gurdeep Singh Nehra, Advocate accepts notice on behalf of respondents No.2 to 6 and files his *Vakalatnama* in the Court today, which is taken on record. He admits the factum of compromise between the parties and submits that the complainant has no objection in case the prayer made by the petitioner is allowed.

9. 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.



10. 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.

11. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab, 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. The conditions specified in Section 82 (2) Cr.P.C. for the publication of a proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation and proceedings subsequent thereto a nullity.

12. Keeping in view the aforementioned facts and circumstances, present petition is allowed and the impugned order dated 04.08.2023 (Annexure P-6), vide which the petitioner was declared proclaimed offender and the orders dated 12.06.2022 (Annexure P-5) and 05.01.2023 (Annexure P-4), whereby his bail was cancelled and bail/surety bonds were forfeited to

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the State and non-bailable warrants were issued against him as well as all the consequential proceedings emanating therefrom, are hereby set aside.

13. The petitioner is directed to appear before learned trial Court within a period of four weeks from today and on his doing so, he shall be admitted to bail on his furnishing fresh bail/surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

14. The receipt of payment of costs imposed upon the petitioner must be presented before learned trial Court. Learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.

[ HARPREET SINGH BRAR ]  
JUDGE

01.10.2024  
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No