2024:PHHC:130946

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

120 **CRM-M-48998-2024 (O&M)**
Date of Decision: 01.10.2024

MUNISH JAIN ....Petitioner

VERSUS

STATE OF PUNJAB AND ANR. ....Respondents

CORAM : HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. P.P.S. Tung, Advocate for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

MANISHA BATRA, J. (Oral)

The petitioner is seeking quashing of order dated 31.01.2020 (Annexure P-1) passed by the Court of learned Chief Judicial Magistrate, Ludhiana in complaint No. COMA-4000-2019 titled as 'Deputy Commissioner of Income Tax Vs. Munish Jain' whereby he had been declared a proclaimed absconder.

2. Brief facts relevant for the purpose of disposal of this petition are that the respondent no.2/complainant has filed the aforementioned complaint against the present petitioner under Section 276-C (1) and 277 of Income Tax Act, 1961. The petitioner had been ordered to be summoned as an accused to face trial. He moved an application for grant of anticipatory bail vide order dated 17.12.2019 passed by the learned Court of Sessions Judge, Ludhiana wherein he was directed to surrender before the learned trial Court on or before 04.01.2020. However, he failed to surrender due to

which, his application for grant of anticipatory bail was dismissed by the Court of learned Sessions Judge, Ludhiana on 24.01.2020. The proceedings under Section 82 of Cr.P.C. were already initiated against the petitioner and he was declared a proclaimed person/absconder on 31.01.2020.

3. It is argued by learned counsel for the petitioner that he could not surrender before the learned trial Court on or before 04.01.2020 in compliance of order dated 17.12.2019 as due to fault of the counsel engaged by him, he could not know about the order dated 17.12.2019. As soon as he came to know about this fact, he moved an application for extension of time which was declined. He is not a previous convict. He is ready to join the proceedings. His absence was unintentional. With these broad submissions, it is argued that the impugned order deserves to be quashed.

4. Heard.

5. On a perusal of the material placed on record, it is revealed that the petitioner was ordered to be summoned as an accused by the learned Chief Judicial Magistrate, Ludhiana to face trial for commission of offences punishable under Section 276-C(1) and 277 of Income Tax Act, 1961. Since the petitioner did not cause appearance before the trial Magistrate, therefore, non bailable warrants issued against him and then proceedings under Section 82 of Cr.P.C were initiated. He moved an application for anticipatory bail before the Court of learned Sessions Judge, Ludhiana. Vide order dated 04.01.2020 (Annexure P-3), he was directed to surrender before the learned trial Court on or before 04.01.2020 and to furnish bonds to the satisfaction of the same and was ordered to be released on bail in that circumstance.

However, he failed to cause appearance. Subsequently, he moved an application on 24.01.2020 for extension of time and furnishing of personal/surety bonds which was dismissed by learned Sessions Judge vide order dated 24.01.2020.

6. It is apparent from a perusal of Annexure P-1 which is a copy of order dated 31.01.2020 that the proceedings under Section 82 of Cr.P.C. were already going on against the present petitioner. The proclamation had been effected on 14.11.2019 by the executing police official and he had been declared proclaimed person on 31.01.2020. He is challenging the order dated 31.01.2020 after a gap of 03 years and 09 months. No plausible explanation has been given for this delay. It is also explicit that he very well knew about the fact that he has been declared an absconder. No sufficient reason for challenging the order dated 31.01.2020 has been given by the petitioner. As such, I see no ground to allow this petition. Accordingly, the same is dismissed.

7. The petitioner is directed to surrender before the learned trial Court. However, it is directed that in case petitioner surrenders before the learned trial Court, he may move application for grant of bail, which would be decided expeditiously.

8. Pending application, if any, also stands disposed of.

(MANISHA BATRA)

01.10.2024 **JUDGE**

Deepak Patwal

1. *Whether speaking/reasoned* *Yes/No*
2. *Whether reportable* *Yes/No*