

CRM-M-49414-2024

-1-

115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49414-2024

Date of Decision: 15.10.2024

Jitender Kumar

..... Petitioner

Versus

State of Haryana

.....Respondent

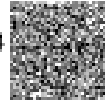
CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. R.S. Mamli, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for quashing of the order dated 23.07.2024, whereby the petitioner has been declared as proclaimed person in FIR No.74 dated 23.08.2021, under Sections 323, 325, 149, 120-B and 307 IPC and Section 25 of the Arms Act, at Police Station Naggal, District Ambala.

2. It has been submitted by learned counsel for the petitioner that the petitioner is facing trial in the above-said FIR and he was granted regular bail by learned trial Court on 29.09.2021 and thereafter, the petitioner was regularly appearing before the trial Court. However, on 30.09.2023, he met with an accident and due to major injuries received by him, he could not appear before the trial Court on 09.10.2023 and filed an application for exemption from his personal appearance, which was allowed and the case was fixed for 23.10.2023. He submits that on 23.10.2023, he again filed an application for exemption from his personal appearance, but the same was declined by the trial Court and thereafter, on 08.04.2024, proceedings under Section 82 Cr.P.C. were started against him. He further submits that absence of the petitioner was neither intentional nor malafidely

**CRM-M-49414-2024****-2-**

but because of his inability to move on account of injuries received by him in the accident. He submits that the petitioner approached this Court by way of filing CRM-M-33697-2024 for setting aside the order dated 23.10.2023, which was disposed of by this Court vide order dated 17.07.2024 and the petitioner was directed to surrender before the trial Court within a period of seven days from the date of passing of the order i.e. 17.07.2024. It is submitted that the petitioner miscalculated the time period granted by this Court and thus, surrendered before the trial Court on 24.07.2024, however, one day prior to the same i.e. on 23.07.2024 he was declared as proclaimed person. He further submits that the petitioner again approached this Court by way of filing CRM-M-39365-2024, which was dismissed as withdrawn as he was already granted bail in the said case vide order dated 12.08.2024 (Annexure P-15). He has submitted that once the petitioner has already surrendered and released on bail by this Court, the impugned order dated 23.07.2024 declaring him proclaimed person is liable to be set aside.

3. Notice of motion.

4. Mr. Sumit Jain, Addl. AG, Haryana, accepts notice on behalf of the State. He has submitted the petitioner was rightly declared proclaimed person, as he failed to appear before the trial Court time and again.

5. After hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner was allowed seven days time by this Court to appear and surrender before the trial Court vide order dated 17.07.2024 and in pursuance to the said order passed by this Court, the petitioner surrendered before the trial Court on 24.07.2024 but one day prior i.e. on 23.07.2024, the trial Court declared the petitioner as proclaimed

person. Although the petitioner appeared before the trial Court one day late than the time granted by this Court, but this lapse being not major one can be condoned as the petitioner has already joined the proceedings and is facing the trial in pursuance to the order dated 12.08.2024 passed by this Court. Under these circumstances, surviving of the order declaring the petitioner proclaimed offender does not serve any purpose especially when he has already been granted bail by this Court during the pendency of the trial of the main case. Keeping in view the above-said facts, the present petition is allowed and the order dated 23.07.2024 declaring the petitioner as proclaimed person, is set aside.

15.10.2024		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No