



CRM-M-49429-2024

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.130

Case No. : CRM-M-49429-2024

Decided On : October 01, 2024

Rajwinder Kaur Petitioner
vs.
State of Haryana and another Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Mohit Kakkar, Advocate
with Mr. Himanshu Setia, Advocate
for the petitioner (*through Video Conferencing*).

Mr. Karan Sharma, DAG, Haryana.

* * *

GURBIR SINGH, J. :

1. This petition is moved for quashing the order dated 23.05.2024, passed by learned Judicial Magistrate Ist Class, Sirsa (for brevity – Trial Court), in a complaint case filed by respondent no.2, whereby bail order of the petitioner was cancelled and non-bailable warrant was issued against her. Further challenge is to the order dated 31.08.2024, whereby the petitioner has been declared proclaimed person, registration of FIR and freezing of her bank account has been ordered, besides the complainant has been directed to file the list of property of the petitioner.

2. Learned counsel for the petitioner has argued that the petitioner availed loan facility from respondent no.2 on 09.09.2014 and 08.09.2014.

At the time of disbursement of said loan, respondent no.2 obtained security



cheques from the petitioner, out of which one cheque dated 20.11.2015 was misused, on the basis of which complaint dated 26.02.2016 (Annexure P-1) was filed. It has further been argued that respondent no.2 – Bank also got registered FIR No.100 dated 23.10.2016, under Sections 420, 465, 467, 471, 120-B IPC, at Police Station Sardulgarh, District Mansa regarding the same transaction, which is pending trial. The petitioner is regularly appearing in the said case. A copy of the case status downloaded from the official website has been annexed as Annexure P-2. It has further been submitted that the petitioner had been regularly appearing in the complaint case also. The case was fixed for defence evidence. However, on 23.05.2024, the petitioner fell ill and could not appear before the learned Trial Court. On the said date, bail order of the petitioner was cancelled and she was ordered to be summoned through non-bailable warrant, for 11.06.2024. Thereafter, she was declared proclaimed person vide order dated 31.08.2024. Actually, the petitioner could not appear before the Court due to her ill health and proclamation proceedings were carried out at the back of the petitioner without any intimation. No attempt was made to serve the petitioner. The PO proceedings were issued against the petitioner at the wrong address. The proceedings were conducted on 27.07.2024, whereas the Investigating Officer gave statement on 24.07.2024. The case is at the fag end and the petitioner is ready to join the proceedings.

3. Notice of motion.

4. Pursuant to advance notice, learned State counsel is present to assist the Court.



5. The address of the petitioner, as given in the complaint, is House No.263/3, Hanspur, Tehsil and District Fatehabad. The petitioner received notice at the said address, surrendered in the Court and got bail. As per the report of serving official (Annexure P-6), son of the petitioner was present in the house, who told that the petitioner had gone to Punjab and her address was not known. Thereafter, the petitioner was declared proclaimed person on 31.08.2024. The proclamation was conducted on 27.07.2024. After declaring the petitioner proclaimed person, the complaint case has already been disposed of. The FIR against the petitioner is registered under Sections 420, 465, 467, 471, 120-B IPC. So, proceedings in the FIR are different from the proceedings in the complaint case.

6. All the mandatory provisions of Section 84 the Bharatiya Nagarik Suraksha Sanhita (BNSS) have been complied with, as per report (Annexure P-6) of the serving official. The said report is hereby reproduced for ready reference :-

“Respected Sir,

Advertisement of Rajwinder Kaur w/o Harpal Singh, village Hanspura, Fatehabad has been received on dated 23/07/24 at 7 pm from MHC Police Station City Sirsa. On 27/07/24 (should be 24/07/2024), after reaching village Hanspura, the house of Rajwinder Kaur w/o Harpal Singh was searched along with the village watchman.

Rajwinder Kaur was not found present at home. But Rajwinder Kaur's son Amrik Singh and sister-in-law Paramjeet Kaur were present who told that Rajwinder Kaur had gone to Punjab with her



husband Harpal Singh. We don't have any permanent address of Punjab. One copy of notice was pasted on the gate of the house. One photocopy of the notice was pasted in a public place and the announcement (munadi) was done from the Gurudwara Bhai. On the same day, 24/07/24, after reaching the Sirsa Court, the second copy of notice was pasted on the notice board of the Court. The proceeding of advertisement was done as per the court order and as per the rules. The third copy of the advertisement is presented today along with the statement before the Court."

7.

Since all the mandatory provisions have been duly complied with, this Court is of the view that no illegality has been committed by the learned Trial Court in passing the impugned orders. The present petition is without any merit and the same is accordingly dismissed.
8.

In case, the petitioner surrenders before the learned Trial Court within 15 days and move an application for bail, then the same shall be decided within a period of five days by passing a speaking order, without being influenced by the order that the petitioner was declared proclaimed person.
9.

Pending applications, if any, shall stand disposed of along with this judgment.

October 01, 2024
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>