

287

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M No. 61573-2018

Date of Decision: 16.04.2024

SURJIT SINGH

... Petitioner

Versus

STATE OF PUNJAB & OTHERS

... Respondents

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

Present:- Mr. A.P.S.Gill, Advocate
for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

SANJIV BERRY, J. (ORAL)

Instant petition under Section 482 Cr.P.C. has been preferred by the petitioner seeking quashing of order dated 18.09.2017 (Annexure P-3) passed by Judicial Magistrate Ist Class, Ludhiana, whereby the petitioner was declared as proclaimed person in case FIR No.132 dated 31.07.2015 under Sections 420, 120-B IPC and Section 24 of Immigration Act, 1983 registered at P.S. Daba, District Ludhiana (Annexure P-1) and also order dated 09.02.2018 (Annexure P-4) vide which the application for recalling of the order dated 18.09.2017 (Annexure P-3) was dismissed.

2. It is *inter alia* contended by learned counsel for the petitioner that FIR (Annexure P-1) was registered against the petitioner wherein he was granted concession of anticipatory bail on 10.08.2017 (Annexure P-2).

He submits that inspite of the fact that petitioner has joined the investigation

and was granted concession of anticipatory bail the proclamation proceedings against the petitioner were continued and he was declared as proclaimed person vide order dated 18.09.2017 (Annexure P-3). He submits that when the petitioner came to know about the order dated 18.09.2017 declaring him as proclaimed person, the petitioner moved an application before the learned Judicial Magistrate, Ist Class for recalling of the order dated 18.09.2017 (Annexure P-3). Vide order dated 09.02.2018 (Annexure P-4), the application of the petitioner for recalling of the order dated 18.09.2017 (Annexure P-3) was dismissed on the ground that the orders once passed by the Court cannot be recalled despite the fact that the petitioner had joined the investigation. He submits that it is categorically mentioned in the order dated 09.02.2018 (Annexure P-4) that there was a lapse on the part of the Investigation Officer Rajwant Pal Singh who had failed to intimate the Court regarding the bail granted to the petitioner, as such he prays for acceptance of the petition and prays for quashing of the impugned order dated 18.09.2017 (Annexure P-3).

3. Learned State counsel has not disputed the factual matrix of the case and admitted the fact that vide order dated 10.08.2017 (Annexure P-2) the petitioner was granted concession of bail and he had joined the investigation.

4. Arguments heard.

5. Considering the respective submissions and also perusing the record, it is not disputed that the petitioner in FIR No. 132 dated 31.07.2015 (Annexure P-1) was granted concession of anticipatory bail vide order dated 10.08.2017 (Annexure P-2) by the Court of learned Additional Sessions

Judge, Ludhiana. Prior to it, the petitioner was directed to join the investigation vide order dated 27.07.2017 and in pursuance thereto, the petitioner had joined the investigation in the case leading to passing of the order dated 10.08.2017 (Annexure P-2) granting him concession of anticipatory bail. Strangely, despite the fact that petitioner being already granted concession of bail and having joined the investigation in the FIR (Annexure P-1), on the application moved by the police the learned Magistrate continued to proceed in declaring him as “proclaimed person” in the same FIR vide impugned order dated 18.09.2017 (Annexure P-3). All this happened, when the petitioner had already joined investigation with the investigation officer of the case in terms of the directions given by learned Additional Sessions Judge hearing the application for grant of anticipatory bail in the same FIR and the Investigation Officer or the SHO concerned never informed the Illaqa Magistrate about this fact and continued to procure the presence of the petitioner by getting warrants of arrest vide order dated 14.06.2017 and then issuance of proclamation vide order dated 27.07.2017 and ultimately getting him declared as proclaimed person in the case vide impugned order dated 18.09.2017 (Annexure P-3), even though the petitioner had already joined investigation in the same FIR with the Investigating Officer concerned, admittedly on 08.08.2017 as is evident from order (Annexure P-2). All these circumstances have been recorded in the order dated 09.02.2018 (Annexure P-4) passed by Judicial Magistrate First Class, Ludhiana.

6. Thus, it is evident from the perusal of record that the impugned order dated 18.09.2017 (Annexure P-3) declaring the petitioner as

proclaimed person has been passed despite the fact that the petitioner had already joined the investigation and was on anticipatory bail. As a consequent, the impugned order dated 18.09.2017 (Annexure P-3) (passed by the learned Judicial Magistrate First Class, Ludhiana) and order dated 09.02.2018 (Annexure P-4) are hereby set aside.

7. Before parting, it is worth mentioning that there is a serious lapse on the part of the police officers concerned and also the Investigation Officer of the case in not apprising the learned Illaqa Magistrate about the fact that the petitioner had already joined the investigation and was granted concession of anticipatory bail by learned Additional Sessions Judge, pursuant to his joining the investigation, much prior to the issuance of proclamation and also much before the declaration of the petitioner as “proclaimed person” in the case. For such serious lapse on the part of the police officials concerned, the Commissioner of Police, Ludhiana is directed to conduct thorough inquiry into the matter and take appropriate legal action against the guilty police officials in accordance with law, under intimation to this Court.

8. Copy of this order be conveyed to the Commissioner of Police, Ludhiana for due compliance.

9. The Petition stands allowed accordingly.

(SANJIV BERRY)
JUDGE

16.04.2024

<i>Gyan</i>	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No