



CRM-M-55577-2023 (O&M)

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

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CRM-M-55577-2023 (O&M)

Date of Decision : November 28, 2024

NEHA SHARMA

-PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Sunil Chadha, Sr. Advocate with
Mr. Raghav Chadha, Advocate
for the petitioner.

Mr. Pardeep Bajaj, D.A.G., Punjab.

Mr. M.S. Yadav, Advocate for
Mr. Sunny K. Singla, Advocate
for the respondent No.2.

KULDEEP TIWARI, J. (ORAL)**CRM-47045-2024**

1. As prayed for, the instant application is **allowed**. The orders enclosed with the instant application respectively as Annexures P-7 and P-8 are taken on record.

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2. On 21.10.2024, this Court had passed the hereinafter extracted order upon the instant petition:-

“1. The solitary relief yearned in the instant petition cast under Section 482 of the Cr.P.C., appertains to quashing of the order dated 07.09.2019 (Annexure P-5), whereby, the learned Judicial Magistrate First Class, Patiala, has declared the petitioner a “Proclaimed Person”, in case emanating from FIR No.239 dated 25.11.2015, under Sections 406, 420 and 120-B of the IPC,



registered at P.S. Civil Lines, Patiala, District Patiala.

2. In his beseeching the relief (supra), the principal argument composed by the learned senior counsel for the petitioner, is that, since the mandate enclosed in Section 82 of the Cr.P.C. did not become meticulously complied with by the learned Magistrate concerned, inasmuch as, requisite efforts never became made to cause valid service upon the petitioner, who has been residing abroad since 2015, therefore, for want of valid service and for want of proper procedure (supra) being adopted, the learned Magistrate erred in initiating proclamation proceedings against the petitioner.

3. Nonetheless, the learned senior counsel for the petitioner also submits that, the petitioner is coming to India on 06.11.2024, and thereafter, she will cause appearance before the learned trial Court/Magistrate concerned upto 13.11.2024. However, he requests that the petitioner may kindly be granted adequate protection from her arrest, thereby enabling her to cause appearance before the learned trial Court/Magistrate concerned and to apply for anticipatory bail before the latter.

4. This Court has heard the submissions made by the learned senior counsel for the petitioner and also examined the impugned proclamation order (Annexure P-5).

5. Prima facie, this Court is of the opinion that the procedure enshrined in Section 82 of the Cr.P.C. has not been complied with, in its letter and spirit, by the learned Magistrate concerned before drawing the impugned proclamation order (Annexure P-5), inasmuch as, the maker thereof has not recorded any satisfaction that the petitioner is knowingly and deliberately avoiding the execution of warrants.

6. Therefore, considering the submissions made hereinabove and the innocuous prayer of the learned senior counsel for the petitioner, this Court deems it appropriate to grant an opportunity to the petitioner to appear before the learned trial Court/Magistrate concerned upto 13.11.2024 and to avail the appropriate legal recourse. The arrest of the petitioner shall remain stayed only upto 13.11.2024 and she shall not be arrested at the Airport concerned, upon her arrival from abroad. Moreover, in case the petitioner files any anticipatory bail application, the same shall be decided on its



own merits, and, without getting influenced from the impugned proclamation order (Annexure P-5).

7. List on 28.11.2024, in the urgent list, along with CRM-M-6151-2019.”

3. In pursuance to the directions embodied in the hereinabove extracted order, the petitioner arrived India on 06.11.2024, and thereupon, she applied for grant of anticipatory bail before the learned Additional Sessions Judge, Patiala. Accordingly, the learned Additional Sessions Judge, Patiala, through drawing the order enclosed in Annexure P-7, directed the petitioner to surrender before the investigating officer within seven days and also directed the latter to release her on interim bail subject to her furnishing personal/surety bonds. The directions embodied in Annexure P-7 were complied with by the petitioner, through hers joining the investigation on 14.11.2024, and accordingly, the interim order dated 12.11.2024 (Annexure P-7) was made absolute, vide order dated 22.11.2024 (Annexure P-8).

4. This Court has also examined the impugned order dated 07.09.2019 (Annexure P-5) and is of the opinion that, the impugned order has been passed in utter disdain to the mandate carried in Section 82 of the Cr.P.C., inasmuch as, the maker thereof has not recorded any satisfaction that the petitioner is knowingly and deliberately avoiding the execution of warrants.

5. In summa, when the petitioner has complied with the directions issued by this Court and has taken apposite legal recourse, whereupon, she has been granted the concession of anticipatory bail, coupled with the fact that the learned Magistrate concerned has evidently failed to adopt the



requisite procedure for ensuring valid service becoming caused upon the petitioner, therefore, the impugned order dated 07.09.2019 (Annexure P-5) warrants interference.

6. Consequently, the instant petition is **allowed** and the impugned order dated 07.09.2019 (Annexure P-5) is hereby set aside. However, the petitioner is directed to cause appearance before the learned trial Court concerned, on each and every date of hearing.

November 28, 2024
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No