

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

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CRM-M-51595-2024 (O&M)

Date of Decision: 08.11.2024

Rakesh Kumar

.... Petitioner

Versus

State of Punjab and another

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Pranshull Dhull, Advocate and
Mr. Punyareet, Advocate for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

NIDHI GUPTA, J. (ORAL)

By way of filing the present petition under Section 482 Cr.P.C./528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner seeks quashing of impugned orders 01.08.2024 and 19.10.2024 (Annexure P-1) passed by the learned Chief Judicial Magistrate, Sri Muktsar Sahib in case arising out of FIR No. 172 dated 28.05.2020 (Annexure P-2) registered under Section 498-A and 34 IPC at Police Station City, Sri Muktsar Sahib, Punjab, whereby non-bailable warrants as well as proclamation has been issued against the petitioner.

On the last date of hearing i.e. 18.10.2024, following order was passed by this Court:-

“By way of filing the present petition under Section 482 Cr.P.C./528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner seeks quashing of impugned orders 01.08.2024 and



19.10.2024 (Annexure P-1) passed by the learned Chief Judicial Magistrate, Sri Muktsar Sahib in case arising out of FIR No. 172 dated 28.05.2020 (Annexure P-2) registered under Section 498-A and 34 IPC at Police Station City, Sri Muktsar Sahib, Punjab, whereby non-bailable warrants as well as proclamation has been issued against the petitioner.

At the very outset, learned counsel for the petitioner has referred to the copies of zimni orders (Annexure P-4, Colly.) passed by the learned trial Court w.e.f. 10.11.2022 until 18.05.2024, to demonstrate that bailable warrants against the petitioner were not issued by the concerned Ahlmad. Thereafter, now, non-bailable warrants and proclamation proceedings have been issued against the petitioner vide impugned orders dated 01.08.2024 and 09.10.2024 (Annexure P-1). It is submitted that the petitioner is merely working as a Sweeper at Amritsar and has been falsely embroiled in the present FIR (Annexure P-2) by his wife at Sri Muktsar Sahib. Learned counsel for the petitioner undertakes that the petitioner is ready and willing to surrender before the learned trial Court to attend the trial proceedings and, therefore, requests that the impugned orders dated 01.08.2024 and 09.10.2024 (Annexure P-1) may be set aside.

Notice of motion.

On the asking of Court, Mr. Kunwarbir Singh, AAG, Punjab, accepts notice on behalf of respondent No. 1-State.

Learned counsel for the State draws the attention of this Court to impugned order dated 01.08.2024, wherein it was recorded that the bailable warrants issued against the petitioner have been received back served, but he was not present despite service. Thereafter, non-bailable warrants were issued against the petitioner for 09.10.2024. On 09.10.2024, non-bailable warrants issued against the petitioner received back unexecuted, as a result of which the petitioner was ordered to be summoned through proclamation.



Learned counsel for the petitioner submits that petitioner was working Sweeper at Amritsar and was not aware of the impugned orders dated 01.08.2024 and 09.10.2024 (Annexure P-1) as, he resides in Amritsar, whereas the present proceedings are being conducted at Sri Muktsar Sahib. It submitted that when the petitioner came to know about the passing of impugned orders through the Investigating Officer, he had filed an application for grant of anticipatory bail before the learned Additional Sessions Judge, Sri Muktsar Sahib, which was dismissed vide order dated 26.09.2024 (Annexure P-5) as, the same was not maintainable.

I have heard learned counsel for the parties and gone through the case file.

*In view of the above and keeping in view the totality of the facts and circumstances of the case, but without commenting upon the merits of the case, the impugned orders dated 01.08.2024 and 09.10.2024 (Annexure P-1) and all subsequent proceedings arising therefrom are ordered to be set aside. The petitioner is directed to surrender before the learned trial Court/Duty Magistrate on or before **29.10.2024**, and move an application for bail, which shall be considered and disposed of by the learned trial Court/Duty Magistrate on the same day, by accepting bail/surety bonds to be furnished by the petitioner to its satisfaction.*

Learned trial Court/Duty Magistrate, concerned shall send a compliance report to this Court in this regard.

Adjourned to 08.11.2024, awaiting compliance report of the learned trial Court/Duty Magistrate, concerned.”

Learned counsel for the State has produced a copy of order dated 28.10.2024 passed by learned trial Court, wherein it is recorded that in compliance of order dated 18.10.2024, accused is granted bail in the above said case FIR No. 172 dated 28.05.2020 on furnishing bail bonds

and surety bonds in the sum of Rs.80,000/- with one surety in the like amount. Bail bonds and surety bonds furnished, which are accepted and attested. A copy of the said order dated 28.10.2024 has been handed over in Court, which is taken on record.

In view of the above, present petition is disposed of and orders dated 01.08.2024 and 19.10.2024 (Annexures P-1 and P-2) are set aside.

Pending application, if any, stands disposed of.

08.11.2024

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No