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CRM-M-53779-2024

2024 P.H.C. 171249



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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-53779-2024

Date of decision: 19.12.2024

NAVNIHAL SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

....Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Bhupinder Banga, Advocate for the petitioner.

Mr. Amit Shukla, AAG Punjab.

Mr. R.S. Malik, Advocate for the complainant.

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SANJIV BERRY, J. (ORAL)

The instant petition under Section 528 of BNSS, 2023 has been moved by the petitioner seeking quashing of the order dated 24.12.2021 (Annexure P-2) passed by learned Sessions Judge, SBS Nagar in case CNR No.PBSB0100-0864-2020 (SC/28/2020) titled as '*State of Punjab vs. Sukhdeep Singh @ Sukha*' in case FIR No.95 dated 07.06.2018 under Sections 323, 341, 120-B IPC (506 IPC and 379-B IPC added later on) registered at P.S. Nawanshehar, District SBS Nagar, whereby the petitioner was declared as proclaimed offender without complying with the provisions of Section 82 Cr.P.C.

2. Learned counsel for the petitioner *inter alia* contends that in compliance of the order dated 08.11.2024, petitioner appeared before the



learned trial Court on 12.11.2024 and furnished requisite bail bonds, surety bonds and also deposited the costs as imposed by this Court and placed on record copy of order dated 12.11.2024 passed by learned Judicial Magistrate 1st Class, SBS Nagar. He contends that since the petitioner has joined the trial Court proceedings, as such, the order dated 24.12.2021 (Annexure P-2) passed by learned Sessions Judge, SBS Nagar, whereby the petitioner was declared as proclaimed offender without complying with the provisions of Section 82 Cr.P.C., be quashed.

3. Learned State counsel has not disputed the aforesaid factual matrix of the case and submits that petitioner appeared on 12.11.2024 before the learned trial Court and furnished requisite bail bonds.

4. Learned counsel appearing on behalf of the complainant has opposed the bail.

5. Heard.

6. During the course of the proceedings, following order was passed on 08.11.2024:-

“ By way of present petition filed under Section 528 of the Bhartiya Nagarik Suraksha Sanhita 2023 (BNSS), the petitioner seeks quashing of the order dated 24.12.2021 (Annexure P-2) passed by learned Sessions Judge, SBS Nagar, in case CNR No. PBSB0100-0864-2020 (SC/28/2020) titled as ‘State of Punjab vs. Sukhdeep Singh @ Sukha’ in case FIR No. 95 dated 07.06.2018 under Sections 323, 341, 120-B IPC (506 IPC and 379-B IPC added later on) registered at Police Station City Nawanshehar, District SBS Nagar (Annexure P-1) vide which the petitioner had been declared proclaimed offender without complying with the provisions of Section 82 Cr.P.C.

2. Heard.



3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner after having been arrested in case FIR (Annexure P-1) was granted concession of bail had been regularly appearing in the concerned Court, however, he could not appear in Court on 22.09.2021 and on the application seeking exemption moved by the defence counsel, his presence was exempted for that day by the learned Trial Court. He contends that the absence of the petitioner was on account of his being admitted in the Drug De-addiction Center from 27.09.2021 to 26.03.2022 and has placed on record Annexure P-8 to the said fact.

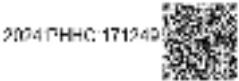
4. It is further contended by learned counsel for the petitioner that on account of his absence, learned Trial Court proceeded to issue nonailable warrants of arrest vide order dated 05.10.2021 (Annexure P-3) and vide order dated 21.10.2021, his proclamation was issued for 25.11.2021. He contends that on 25.11.2021, as is evident from the order Annexure P-5, although the proclamation was executed on 23.11.2021 but the case was adjourned to 24.12.2021 for awaiting the presence of the accused-petitioner. He contends that no proclamation or notice was issued to the petitioner for his presence on 24.12.2021, as such, the impugned order dated 24.12.2021 (Annexure P-2), for which date there was no notice, is passed in violation of the provisions laid down under Section 82 Cr.PC and the same is liable to be set aside.

5. Notice of motion, returnable for 09.12.2024.

6. On the asking of the Court, Mr. Adesh Pal Singh, AAG, Punjab, who is present in Court, accepts notice and does not dispute the factual matrix of the case.

7. Keeping in view the above facts and circumstances, the petitioner is directed to appear before the learned Trial Court/Judge on duty/Duty Magistrate within a period of 07 days from today and in that event, learned Trial Court/Judge on duty/Duty Magistrate will admit the petitioner on interim bail subject to its satisfaction on his furnishing requisite bail/surety bonds, however, subject to deposit of a cost of Rs. 5,000/- in the District Legal Services Authority, SBS Nagar, before furnishing bail/surety bonds.

8. The petitioner shall also furnish a specific undertaking before the learned Trial Court/Judge on duty/Duty Magistrate that, in future, he would be regularly appearing before the concerned Court on each and every date and in case of some exigency, he will seek prior permission of the concerned Court qua his exemption to appear on the date fixed.”



7. Keeping in view the fact that the petitioner has already appeared on 12.11.2024 before the learned trial Court and furnished requisite bail/surety bonds consequent to the order dated 08.11.2024, passed by this Court, the present petition is allowed and order dated 24.12.2021 (Annexure P-2), passed by learned Sessions Judge, SBS Nagar, whereby the petitioner was declared as proclaimed offender without complying with the provisions of Section 82 Cr.P.C. is hereby set aside and the interim bail granted vide order dated 08.11.2024 is hereby confirmed.

8. The petition stands disposed of.

19.12.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |