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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-59808-2023 (O&M)

Date of Decision: 23.07.2024

RAJESH KUMAR

... Petitioner

Versus

STATE OF HARYANA & ANOTHER

... Respondents

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

Present:- Mr. Shailender Singh Gill Advocate for the petitioner.

Mr. Surender Singh, AAG, Haryana.

SANJIV BERRY, J. (ORAL)

The instant petition under Section 482 Cr.P.C. has been moved by the petitioner seeking quashing of the order dated 16.09.2023 passed by learned Judicial Magistrate Ist Class, Hansi, in complaint case bearing CIS No.NACT-44-2018 dated 17.01.2018 titled as "*The Hisar District Primary Co.Op Agri. And Rural Development Bank versus Rajesh Kumar*" (Annexure P-1) whereby the petitioner was declared as proclaimed person in case FIR No.474 dated 04.10.2023 registered under Sections 174-A IPC at Police Station Narnaund (Annexure P-2).

2. Learned counsel for the petitioner *inter alia* contends that in compliance of the order dated 14.12.2023, petitioner appeared before the learned trial Court on 27.12.2023 and furnished requisite bail bonds and surety bonds and placed on record copy of order dated 27.12.2023 passed by the



learned Judicial Magistrate First Class Hansi. He contends that since the petitioner had joined the trial Court proceedings, as such the order dated 16.09.2023 (Annexure P-1) passed by learned Judicial Magistrate First Class, Hansi whereby the petitioner was declared as proclaimed person, be quashed.

3. Learned State counsel on instructions from S.I. Dolu Ram has not disputed the aforesaid factual matrix of the case and submits that petitioner appeared on 27.12.2023 before the learned trial Court and furnished requisite bail bonds.

4. Heard.

5. During the course of the proceedings, following order was passed on 14.12.2023:-

“ The instant petition under Section 482 Cr.P.C. has been moved by the petitioner for quashing of the order dated 16.09.2023 passed by learned Judicial Magistrate Ist Class, Hansi, in complaint case bearing CIS No. NACT-44-2018 dated 17.01.2018 titled “The Hisar District Primary Co.Op. Agri. and Rural Development Bank Versus Rajesh Kumar” (Annexure P-1) whereby the petitioner had been declared as proclaimed person in this case and also the consequent proceedings including the FIR No.474 dated 04.10.2023 under Section 174-A IPC registered at P.S. Narnaund (Annexure P-2) and all its consequential proceedings arising out of it.

2. It is, inter alia, contended by learned counsel for the petitioner that the aforesaid complaint was filed by respondent No.2 against the petitioner whereby he was summoned, but the petitioner never received any summons or warrants to appear in this case due to the fact that he had shifted his residence to Gurugram. He submits that the petitioner was declared as proclaimed person in this case vide impugned order dated 16.09.2023 (Annexure P-1) without following the procedure laid down under Section 82 Cr.P.C. He has also referred to Annexure P-13, the statement of PW 13- Executing Official, wherein also the factum of petitioner not residing at the given address and had shifted his residence to Gurugram, has been mentioned.

3. Notice of motion.



4. *On the asking of the Court, Ms. Gaganpreet Kaur, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.*
5. *Notice to respondent No.2 be issued for the date fixed.*
6. *Dasti as well.*
7. *In the meanwhile, the petitioner is hereby directed to appear in the trial Court/Duty Magistrate within 15 days from today and in the event of his arrest, he is ordered to be released on interim bail on his furnishing personal/surety bonds to the satisfaction of the concerned Court. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.*
8. *The petitioner is further directed to appear before the Investigating Officer within 15 days from today pertaining to the FIR No.474 dated 04.10.2023 under Section 174-A of IPC registered at Narnaund (Annexure P-2) and in that event ordered to be released on interim bail to the satisfaction of the concerned Investigating Officer/Arresting Officer.*
9. *Adjourned to 29.01.2024.”*

6. Keeping in view the fact that the petitioner has already appeared on 27.12.2023 before the learned trial Court and furnished his requisite bail/surety bonds consequent to the order dated 14.12.2023, passed by this Court, the present petition is allowed and order dated 16.09.2023 (Annexure P-1), passed by learned Judicial Magistrate First Class, Hansi, whereby the petitioner was declared as proclaimed person is hereby set aside and the interim bail granted vide order dated 14.12.2023 is hereby confirmed.

7. The Petition stands disposed of.
8. Pending applications, if any, also stands disposed of.

(SANJIV BERRY)
JUDGE

23.07.2024
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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | Yes |