



353

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

CRM-M-59616-2023

Date of Decision: 23.07.2024

MUNISH @ MANAK

... Petitioner

Versus

STATE OF PUNJAB

... Respondents

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

Present:- Mr. Davinder Bir Singh, Advocate for the petitioner.

Mr. Japjot Singh, AAG, Punjab.

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 17.05.2023 (Annexure P-5) passed by learned Judicial Magistrate First Class Ludhiana, whereby the petitioner was declared as proclaimed person in case FIR No. 213 dated 15.07.2018 registered under Sections 13, 3 of the Punjab Gambling Act, 1867 and Section 420 IPC, at Police Station Division No.7, District Police Commissionerate Ludhiana (Annexure P-1).

2. Learned counsel for the petitioner *inter alia* contends that in compliance of the order dated 28.11.2023, petitioner appeared before the learned trial Court on 04.12.2023 and furnished requisite bail bonds and surety bonds and placed on record copy of order dated 04.12.2023 passed by the learned Judicial Magistrate First Class Ludhiana. He contends that since the



petitioner had joined the trial Court proceedings, as such the order dated 17.05.2023 (Annexure P-5) passed by learned Judicial Magistrate First Class, Ludhiana whereby the petitioner was declared as proclaimed person, be quashed.

3. Learned State counsel has not disputed the aforesaid factual matrix of the case and submits that petitioner appeared on 04.12.2023 before the learned trial Court and furnished requisite bail bonds.

4. Heard.

5. During the course of the proceedings, following order was passed on 28.11.2023:-

“ By way of present petition, the petitioner is seeking quashing of the impugned order dated 17.05.2023 (Annexure P-5) passed by learned Judicial Magistrate First Class, Ludhiana, whereby the petitioner was declared as proclaimed person in case FIR No.213 dated 15.07.2018 registered undr Sections13, 3, 67 of the Punjab Gambling Act, 1867 and Section 420 IPC at Police Station Division No.7, District Police Commissionerate Ludhiana.

2. It is, inter alia, contended by learned counsel for the petitioner that the petitioner after having been granted bail in the case, had been appearing in the trial Court, however, during Covid-19 period, he shifted his residence, due to which he could not receive any notice to appear in the Court, leading to the trial Court cancelling the bail and issuance of non-bailable warrants and ultimately proclamation for service of the petitioner. He submits that the learned trial Court has declared the petitioner as proclaimed person vide order dated 17.05.2023 (Annexure P-5) without following the procedure laid down in Section 82 CrPC as there was no proclamation effected at conspicuous location of the area by way of public reading, as was required under Section 82(2) CrPC. He further submits that the address given in the proclamation is not the address of the petitioner. He has also referred to the ambiguity in the proclamation (Annexure P-2), wherein the offence under Section 306/34 IPC has been mentioned, whereas the petitioner is involved in case under Section 13 of the Gambling Act. He further submits that the petitioner is ready to face trial.

3. Notice of motion.



4. *On the asking of the Court, Mr. Subhash Godara, Additional A.G.Punjab accepts notice on behalf of respondent-State and seeks time to file reply.*

5. *Be filed on or before the next date of hearing with an advance copy to the counsel opposite.*

6. *Adjourned to 18.01.2024.*

7. *In the meanwhile, petitioner is directed to appear before the Trial Court/Duty Magistrate concerned, within a period of 07 days from today. In that event, he is ordered to be admitted on interim bail on his furnishing personal/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. The petitioner will also furnish a specific undertaking that in future he will appear on each and every date of hearing without fail and only in case of extreme exigency will he seek prior exemption from the Court in accordance with law. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C”*

6. Keeping in view the fact that the petitioner has already appeared on 04.12.2023 before the learned trial Court and furnished his requisite bail/surety bonds consequent to the order dated 28.11.2023, passed by this Court, the present petition is allowed and order dated 17.05.2023 (Annexure P-5), passed by learned Judicial Magistrate First Class, Ludhiana, whereby the petitioner was declared as proclaimed person is hereby set aside and the interim bail granted vide order dated 28.11.2023 is hereby confirmed.

7. The Petition stands allowed.

(SANJIV BERRY)
JUDGE

23.07.2024

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