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

CRM-M-56358-2024

Date of Decision:- 13.11.2024

Harinder Singh alias Honey

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Shahid Anwer Chaudhary, Advocate
for the petitioner.

Mr. Kewal Singh, Addl. A.G. Punjab.

AMARJOT BHATTI, J.

1. Petitioner Harinder Singh alias Honey has filed petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 with prayer to quash impugned order dated 12.09.2022 (Annexure P-5) passed by learned Additional Sessions Judge, Jalandhar vide which petitioner has been wrongly declared Proclaimed Offender in FIR No. 123 dated 30.05.2017 (Annexure P-1) under Sections 323, 324, 325, 326, 307, 109, 120-B, 506, 34 of IPC, registered at Police Station Rama Mandi, District Jalandhar, with further prayer that Court may pass any order or direction which this Court may deem fit and proper in the given facts and circumstances of case.

2. Learned counsel for petitioner argued that Harinder Singh alias Honey was facing trial in FIR No. 123 dated 30.05.2017, Annexure P-

1. He was regularly appearing in said trial. On 04.03.2022, he could not



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appear in Court as he had gone to Srinagar and could not reach on time. He had informed his counsel to file application for exemption, however, even learned counsel did not appear in Court, as a result, he was marked absent and his arrest warrants were issued as per order dated 04.03.2022, Annexure P-2. During this period, his non-bailable warrants were issued from time to time and as per order dated 16.07.2022, Annexure P-3, proclamation proceedings were issued and ultimately vide order dated 12.09.2022, Annexure P-5, he was declared Proclaimed Offender. Learned counsel for petitioner pointed out that proclamation proceedings were not conducted in a proper manner. He was not given complete 30 days to appear in Court as provided under Section 82 Cr.P.C. There was no intentional willful absence on his part. He is ready to face trial. Therefore, impugned order dated 12.09.2022, Annexure P-5, may kindly be set aside and he may be granted bail.

3. Notice of motion.

4. On asking of this Court, Mr. Kewal Singh, Addl. A.G. Punjab accepts notice on behalf of State. Learned counsel representing State pointed out that next date fixed in this case is 28.11.2024.

5. Learned counsel for petitioner has placed on record relevant *zimni* orders for disposal of present petition. Therefore, no purpose would be served by calling for status report.

6. I have considered the arguments and have gone through the record. As per *zimni* order dated 04.03.2022, Annexure P-2, he absented and consequently, his non-bailable warrants of arrest were issued.

Ultimately, when warrants of arrest received back unserved, proclamation



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proceedings under Section 82 Cr.P.C. were initiated for 04.08.2022, as per *zimni* order dated 16.07.2022, Annexure P-3. As per provisions of Section 82 Cr.P.C. on issuance of proclamation, petitioner was not given requisite notice period of 30 days to appear in Court to face trial before passing effective order. Rather, proclamation was effected on 01.08.2022 as per *zimni* order dated 04.08.2022, Annexure P-4. Statement of serving Constable was recorded. Another adjournment was granted to complete the time period of 30 days and thereafter, he was declared Proclaimed Offender vide impugned order dated 12.09.2022. In the light of this, proclamation was not conducted as per provisions of Section 82 of Cr.P.C. and impugned order dated 12.09.2022, Annexure P-5, is not sustainable in the eyes of law. It cannot be ignored that present petitioner remained absent before learned trial Court for a considerable time period. Accordingly, petition filed by petitioner is allowed and impugned order dated 12.09.2022 (Annexure P-5) is set aside, subject to payment of cost of ₹10,000/- with District Legal Services Authority, Jalandhar. Petitioner is directed to surrender before learned trial Court/Duty Judge concerned within 10 days from today and be released on bail on furnishing requisite bail and surety bonds to the satisfaction of learned trial Court/Duty Judge concerned, failing which, concerned Court will proceed as per law.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

13.11.2024

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No