

CRM-M-56967-2024

132

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56967-2024
Date of Decision: 18.11.2024

Sam Khan ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ruhani Chadha, Advocate and
Mr. Kashav Chadha, Advocate
for the petitioner.

Ms. Swati Batra, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
110	13.08.2019	Division 8, District Police Commissionerate, Punjab	457, 380, 511 IPC

1. Challenging the order dated 06.05.2023 of proclamation on being declared as proclaimed person, the petitioner has come up before this court under section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS].
2. Notice served upon the official respondent through State counsel. The nature of order which this Court proposes to pass, there is no necessity of calling any response from the State.
3. Counsel for the petitioner submits that the petitioner was granted regular bail vide order dated 03.09.2019 passed by JMIC, Jalandhar and he was continuously appearing before the trial Court. During the pandemic, challan was presented and he could not appear before the trial Court due to some mis-communication and trial Court proceeded to issue arrest warrant and petitioner was declared proclaimed offender. He further submits that petitioner is ready to surrender before the majesty of Court if protection is granted.



CRM-M-56967-2024

4. An analysis of the submissions and the petition would lead to the following outcome. It remains undisputed that when the petitioner got to know about he being declared proclaimed offender, he took legal remedy and came up before this Court. It also remains undisputed that it never happened that police officials caught him or tried to run away to avoid an appearance in Court. In such a situation, the petitioner has proved his case by a preponderance of probabilities and has prima facie established that his non-appearance was beyond their control. The petitioner within a short span on his own came before this Court, undertaking to attend the trial, and it is not the police who have been able to arrest.

5. Let the petitioner attend the trial because the criminal justice system must not hamper and suffer because of the petitioner.

6. The primary object of the service is to secure the accused's presence at trial. The petitioner approached this court independently, establishing the bonafide at this stage. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet if the impugned proclamation order is quashed qua the petitioner. Thus, exercising the inherent powers under section 528 BNSS, it would be appropriate to grant the following limited relief to the petitioner, subject to the compliance of the conditions mentioned in this order.

7. The State's counsel submitted that if this Court is granting any concession to the petitioner, it must be subject to some reprimand. The petitioner's counsel declared that if this court imposes reasonable and affordable costs, the petitioner shall deposit the same.

8. Given above, the petitioner shall deposit Rs.10,000/- in the PGI Poor Patients Welfare fund and hand over the receipt of deposit to trial Court by the next date.

9. The petitioner is directed to surrender before the concerned court **on 25.11.2024, 11.00 AM**. On this date, if the petitioner files bail application(s), the concerned trial court to grant bail to the petitioner on surrendering before the concerned Court as he was on bail earlier subject to furnishing bail bonds by imposing reasonable conditions deemed appropriate in the background of the accused's conduct. The petitioner is directed to appear on each date before the trial court and not to delay it.



CRM-M-56967-2024

10. There shall be a stay of the petitioner's arrest in the case mentioned till 25.11.2024 5.00 P.M. This stay is subject to the petitioner's surrender, failing which this protection shall also be recalled. It is clarified that if the petitioner appear before the concerned court, then all warrants issued by the concerned court against the petitioner in the matter mentioned above shall automatically stand recalled and canceled.

11. It is clarified that if the petitioner fail to appear before the concerned court within the time limit mentioned in this order, then this order shall be recalled automatically under section 528 of BNSS, 2023, without any further reference to this court.

12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

13. *A certified copy of this order would not be needed, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the concerned court/ officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition is partly allowed to the extent mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

18.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: NO.