

121 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-63244-2023

Date of Decision: 10.01.2024

Sudhir @ Sudhir Yadav

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sudhir Rana, Advocate,
for the petitioner.

HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing the orders dated 27.09.2021 and 22.08.2023, whereby the bail granted to the petitioner was cancelled, followed by declaring him as proclaimed person.

2. Having been implicated in the FIR No.48, dated 18.02.2016, registered under Sections 6 and 7 of the Punjab Scheduled Roads and Controlled of Unregulated Development Act, 1963, at Police Station Dharuhera, District Rewari, the petitioner was granted the concession of anticipatory bail vide order dated 26.09.2018, passed by the Court of Additional and Sessions Judge, Rewari. Though, the petitioner was regularly appearing before the Trial Court, however, on account of Covid-19 situation, resulting into some miscommunication between the petitioner and his lawyer, he could not submit himself before the jurisdiction of the Court, thereby resulting into passing of the aforementioned orders.

3. Learned counsel for the petitioner submits that the proclamation proceedings were carried out against the petitioner in violation of Section 82 Cr.P.C. as the mandatory process was never followed.

4. Notice of motion.

5. Mr. Chetan Sharma, DAG, Haryana accepts notice on behalf of the respondent-State and opposes the prayer made herein while submitting that the petitioner despite having knowledge about the pendency of the proceedings, chose not to submit himself before the jurisdiction of the Court and thus, the impugned orders warrant no interference.

6. I have heard learned counsel for the parties and gone through the paper book and find substance in the submissions made on behalf of the petitioner.

7. A perusal of order dated 19.07.2023 shows that the proclamation was never read over in public place by the Executant Police Officer, thereby, resulting into non-compliance of the mandate of Section 82(2) (i)(a) Cr.P.C. and thus, the order dated 22.08.2023 passed by the Trial Court, declaring the petitioner as proclaimed person cannot be sustained. Section 82 Cr.P.C. which primarily relates to the appearance of the individual before the Court stems from Article 21 of the Constitution of India and thus, being inviolable, has to be followed mandatorily.

8. In view of the above, the present petition is allowed, the orders dated 27.09.2021 and 22.08.2023 are set aside with the direction to the petitioner to appear before the Trial Court within a period of 04 weeks from the date of receipt of certified copy of this order and furnish his fresh bail bonds/surety bonds, which shall be accepted by the Trial Court to its

satisfaction so that the proceedings in the main complaint case can commence. Till then, no coercive steps shall be taken against the petitioner.

9. The aforesaid order shall be subject to payment of costs of Rs.20,000/- to be deposited by the petitioner with the Punjab and Haryana High Court Association Lawyer's Welfare Fund having Account No.41564846387 with State Bank of India, High Court Branch, Chandigarh, within a period of two weeks from today.

10.01.2024
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: yes/no
Whether reportable? yes/no