

2024:PHHC:155057



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

Sr. No.124

CRM-M-58070-2024 (O&M)
Date of decision : 25.11.2024

Baljeet Rai Sharma

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Manoj Kumar, Advocate for the petitioner.

KIRTI SINGH, J. (Oral)

The present petition has been filed under Section 528 of BNSS, 2023 for quashing the impugned order dated 21.03.2024 (Annexure P-31) passed by learned Judicial Magistrate First Class, Garshankar vide which the petitioner has been declared as proclaimed offender in complaint case bearing CIS No: COMI-7-2021 titled as 'State of Punjab Vs. Mohammad Dilshad etc.' (Executive Officer Tehsil Garshankar Vs. Mohammad Dilshad etc.) under Sections 279, 427 & 431 IPC (Annexure P1)

2. Learned counsel for the petitioner submits that the petitioner is a senior citizen aged 78 years and is facing difficulty while walking as he is suffering from 40% permanent disability due to accident suffered by him in the year 2010. He further submits that the petitioner has been falsely implicated in this case and the mandatory procedure prescribed under Section 82 of Cr.P.C. has not been duly followed and the petitioner was never served. He also submits that the petitioner is willing to face trial and therefore, he may be granted one opportunity to appear before the trial

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3. Notice of motion to the official respondents at this stage.
4. At asking of the Court, Mr. Vinay Kumar Malhotra, DAG Punjab accepts notice on behalf of respondent No.1-State. He has opposed the present petition and submits that the learned trial Court has rightly declared the petitioner a proclaimed offender.
5. Heard the rival submissions made by learned counsel for the for the parties.
6. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.
7. On hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner was not served and mandatory provisions of Section 82 Cr.P.C. have not been complied with. The petitioner is ready to appear before the trial Court and face the trial. Therefore, this Court finds that no useful purpose will be served by sending the petitioner in custody when the petitioner is ready to face trial.
8. In view of the above, the present petition is allowed the impugned order dated 21.03.2024 (Annexure P-31) passed by learned Judicial Magistrate First Class, Garshankar vide which the petitioner has been declared as proclaimed offender in complaint case bearing CIS No: COMI-7-2021 titled as 'State of Punjab Vs. Mohammad Dilshad etc.' (Executive Officer Tehsil Garshankar Vs. Mohammad Dilshad etc.) under

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Sections 279, 427 & 431 IPC (Annexure P1) is hereby set aside **subject to payment of cost of Rs.10,000/- by the petitioner to be deposited with the Poor Patient Welfare Fund, PGIMER Chandigarh** within a period of 15 days from today. The petitioner after depositing the cost as stated above would appear before the trial Court concerned on the next date i.e 17.12.2024 and file appropriate application along with receipt of payment of cost. The trial Court would release the petitioner on bail on his furnishing bail/surety bonds to its satisfaction. No coercive action would be taken against the petitioner till the next date. In case, the petitioner failed to appear before the trial Court on the next date or failed to deposit the cost as stated above, this order would be of no avail to the petitioner.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

25.11.2024
Ramandeep Singh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No