

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

125

CRM-M No. 63327-2023

Date of Decision: 25.01.2024

Sandeep Singh @ Seepa

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Jaspreet Singh Brar, Advocate for the petitioner.

HARKESH MANUJA, J.(ORAL)

The petitioner, by way of present petition filed under Section 482 of the Code of Criminal Procedure prays for quashing/setting aside the impugned order dated 23.03.2022 (Annexure P-6) passed by Chief Judicial Magistrate, Faridkot in case bearing FIR No. 135 dated 26.06.2017 under Section 61 of Punjab Excise Act, 1914 registered at Police Station City Faridkot, District Faridkot whereby the petitioner was declared as proclaimed person.

2. Having been implicated in the FIR, the petitioner was granted concession of bail. During Covid time, the petitioner could not appear before the trial Court resulting into cancellation of his bail bonds/surety bonds vide order dated 16.04.2021 and non-bailable warrants were issued against him followed by carrying out proceedings under Section 82 of the Code of Criminal Procedure, in terms of order dated 29.09.2021, for 26.11.2021 being the date for appearance. The proclamation was effected on 14.11.2021 for 26.11.2021 and thereafter the proceedings were adjourned from time to

time which finally culminated into passing of the order dated 23.03.2022,

declaring the petitioner as proclaimed person.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that while declaring the petitioner as proclaimed person, the mandate of Section 82 of Cr.P.C was never followed and thus, the proceedings were wholly vitiated and the order dated 23.03.2022 was wholly unsustainable.

4. Notice of motion.

5. Mr. Gurlal Singh Dhillon, AAG, Punjab accepts notice on behalf of the respondent-State of Punjab.

6. Learned State counsel submits that the impugned order warrants no interference as the petitioner chose not to appear before the trial Court despite having complete knowledge about the pendency of the proceedings against him.

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

8. A perusal of the record shows that the proclamation under Section 82 Cr.P.C was ordered on 29.09.2021 for 26.11.2021 which was effected on 14.11.2021 and thus, clear 30 days period regarding opportunity for appearance to the petitioner was never available up to 26.11.2021 and the matter was adjourned to 04.01.2022 and thereafter to 23.03.2022 when the petitioner was declared as proclaimed person. Admittedly, there was no proclamation effected under Section 82 of the Code of Criminal Procedure for 23.03.2022 and thus, the declaration of petitioner as proclaimed person on the said date was wholly vitiated.

9. Resultantly, the impugned order dated 23.03.2022 (Annexure P-

who intends to himself surrender before the trial Court is granted permission to do so within 15 days from today and furnish his fresh bail bonds/surety bonds which will be accepted by the trial Court subject to its satisfaction. Till then no coercive steps be taken against the petitioner.

10. The aforesaid order shall however would be subject to payment of costs of Rs. 25,000/- to be deposited by the petitioner with the District Legal Services Authority, Faridkot and Punjab Police Welfare Fund in equal share of Rs. 25,000/- each.

25.01.2024

Rajeev (rvs)

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No