



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59734-2024
Date of Order: 04.12.2024

Ajaib Singh
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Piyush Sharma, Advocate
for the petitioner(s).

Ms. Swati Batra, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
97	27.09.2017	Mehna, District Moga	15, 25 NDPS Act and 29 NDPS (added later on)

1. Aggrieved by order dated 18.7.2023 (Annexure P-1) passed by Judge, Special Court, Moga in the FIR captioned above, vide which the petitioner has been declared as a Proclaimed Offender, he has come up before this Court under Section 528 BNSS, 2023.
2. Counsel for the petitioner submits that the petitioner was on bail and was regularly appearing before the trial Court, but later on, he was marked absent and was being nominated in false cases and upon issuance of proclamation, he was declared as proclaimed offender vide order dated 18.7.2023. He submits that the petitioner is innocent and the trial Court has not adopted the proper procedure while declaring him as proclaimed offender. He further submits that now, in case the petitioner is released on bail, he undertakes to appear before the trial Court on each and every date.
3. State’s counsel submits that the petitioner absented from the proceedings before the trial Court without any intimation and thereafter, he could not be arrested or produced before the Court despite issuance of bailable and non-bailable warrants of arrest and ultimately, he was declared proclaimed offender.



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 his being declared a proclaimed offender, he took a legal remedy and came up before this Court. It also remains undisputed that it never happened that police officials had caught him, or he had tried to run away to avoid appearance in the Court. Petitioner has proved his case by preponderance of probabilities and has *prima facie* established that his non-appearance was beyond his control. Considering the undertaking given by the petitioner that he will appear before the trial Court on each and every date, this Court is of the opinion that the petitioner deserves one opportunity to surrender to the majesty of the Court and on his surrender, nothing survives in the order of proclamation except offshoot of the same, if any.

5. The primary object of the service is to secure the accused's presence at trial. The petitioner approached this court independently, establishing the *bona fide* 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.

6. 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.

7. Given above, the petitioner is directed to surrender before the concerned court **on or before 10-12-2024**. On or before this date, if the petitioner files bail application(s) before the trial Court, in that case, the concerned trial court shall grant bail to the petitioner on surrendering before the concerned Court, as he was on bail earlier, subject to his furnishing bail bonds by imposing reasonable conditions that may be 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.

8. There shall be a stay of the petitioner's arrest in the case mentioned above until his surrender, i.e., latest by 10-12-2024. It is clarified that if the petitioner appears before the concerned court, then all warrants issued by the concerned court against the petitioner in the matter mentioned above shall stand recalled and canceled. It is clarified that if the petitioner fails to appear before the concerned court within the time

limit mentioned in this order, then this order shall be recalled automatically under section 403 read with 528 BNSS, 2023, without any further reference to this court. **It is further ordered that this order will be subject to payment of an amount of Rs.30,000/- in the PGI Poor Patients’ Welfare Fund, Chandigarh.**

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

10. *There would be no need for a certified copy of this order, 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. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition partly allowed to the extent mentioned above. All pending applications, if any, stand disposed. Petitioner shall be at liberty to challenge the FIR, if any registered pursuant to the impugned order.

(ANOOP CHITKARA)
JUDGE

December 04, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No