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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 6831/2024, CRL.M.A. 26118/2024**

TARUN KUMAR

.....Petitioner

Through: Mr.Maninder Singh, Sr.Adv. with
Mr.Ajay Kumar Pipaniya, Ms.Diksha
Dharia, Ms.Nikita Garg, Mr.Harijas
Pratap Singh, Mr.Sandeep Mittal,
Mr.Paras Punyani and Mr.Tarang
Pandit, Advocates.

versus

STATE (GOVT. OF NCT OF DELHI) AND ORS.Respondents

Through: Mr.Sanjeev Bhandari, ASC (Crl.) for
State with Ms.Charu Sharma,
Mr.Arjit Sharma, Mr.Vaibhav Vats
and Mr.Nikunj Bindal, Advocates
alongwith Insp./SHO Pramod Kumar,
P.S. Mayur Vihar Phase-I.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

03.09.2024

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1. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioner for setting aside impugned order dated 20.08.2024 passed by learned JMIC, East District, Karkardooma Courts, Delhi whereby petitioner was declared as Proclaimed Offender in FIR No. 147/2024, under Section 302 IPC registered at P.S. Mayur Vihar PH-1.

2. Learned counsel for petitioner submits that petitioner was unaware of the proceedings taken up on registration of FIR and got apprised on issue of



proclamation process by learned MM under Section 82 Cr.P.C., directing him to appear before the Court on 20.08.2024. He further submits that an application for anticipatory bail was accordingly filed by petitioner on 16.08.2024 before learned ASJ concerned in FIR No.147/2024, under Section 302 IPC registered at P.S. Mayur Vihar Phase-I. Further since aforesaid application on listing for hearing on 17.08.2024, was kept for consideration on 02.09.2024, petitioner could not appear before the learned MM in person on 20.08.2024. The aforesaid fact is stated to be known to the Investigating Agency when the impugned order dated 20.08.2024 was passed by learned MM declaring the petitioner as proclaimed offender, and despite an application for recalling of process issued under Section 82 Cr.P.C. having filed before learned MM. It is also pointed out that on 20.08.2024, petitioner had also joined proceedings before learned MM through VC.

3. Learned ASC for State fairly does not dispute the factual position and submits that in view of filing of application for anticipatory bail, learned MM should have deferred proceedings under Section 82 Cr.P.C.

4. Considering the facts and circumstances of the case, apparently, since an application for anticipatory bail had already been preferred on record by the petitioner on 16.08.2024 and had duly joined the proceedings before learned MM through VC on 20.08.2024, he could not have been declared as proclaimed offender on 20.08.2024. In the facts and circumstances, impugned order dated 20.08.2024 passed by learned JMIC, East District, Karkardooma Courts, Delhi declaring petitioner as proclaimed offender is set aside with liberty to State to proceed, in accordance with law.



Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to the learned Trial Court for information.

ANOOP KUMAR MENDIRATTA, J.

SEPTEMBER 03, 2024/v