



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

CRM-M-3438-2024

Date of decision: 18.02.2025

RAJWINDER KAUR AND OTHERS

....PETITIONERS

Versus

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present: - Mr. Harpreet S. Rakhra, Advocate for the petitioners.

Mr. Ankit Grewal, DAG, Punjab.

SANJIV BERRY, J. (ORAL)

By way of present petition filed under Section 482 of BNSS, 2023, petitioner seeks quashing of impugned order dated 05.12.2023 (Annexure P-3) passed by the learned Judicial Magistrate Ist Class, Gurdaspur, declaring the petitioners as proclaimed persons alongwith all proceedings arising therefrom qua the present petitioner in FIR No.17 dated 24.04.2022 registered under Sections 420, 380, 120-B of IPC at P.S. Purana Shalla, District Gurdaspur.

2. It is, *inter alia*, contended by learned counsel for the petitioner that in compliance to the order passed by this Court on 05.02.2024, the petitioner has appeared before the learned trial Court and furnished the requisite bail bonds. In support of his contention, he has placed on record copy of order dated 12.02.2024 passed by learned Judicial Magistrate Ist Class, Gurdaspur, in this regard.

3. This aspect is not disputed by learned State counsel.

4. During the course of hearing on 05.02.2024 following order



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was passed:

“2. It is, inter alia, contended by learned counsel for the petitioners that the petitioners, who happened to be the mother and daughters, had been regularly appearing in the Court in the trial Court in case titled “State Versus Rajwinder Kaur etc.” after being granted concession of bail. He contends that as the husband of petitioner No.3 and father of respondents No.1 and 2 namely Hardev Singh, was seriously ill, the petitioner could not appear in Court and had moved application for exemption which was allowed on 15.07.2023. He further submits that on the next date i.e. 21.08.2023, the petitioners could not appear in Court due to his condition being serious and their counsel could not intimate the Court leading to cancellation of bail bonds by learned trial Court and issuance of non-bailable warrants of arrest. He further contends that thereafter the learned trial Court proceeded to issue non-bailable warrants of arrest of the petitioners as well as proclamations qua them, however, the same were not received nor they got any intimations in the meanwhile, said Hardev Singh has expired and the petitioners were busy in performing his last rites. He referred to the statements of the executing officials recorded before the learned trial Court to show that even this fact is incorporated in the report given by him also. He further submits that the proclamation has been effected at the address where the petitioners are not residing and is reported in Annexure P-7 that the house is lying locked. He submits that the address of the petitioners given in the FIR is different and they are residing at the address given in the FIR wherein no such proclamation was ever effected. He submits that the impugned order (Annexure P-3) has been passed by learned trial Court on 05.12.2023 declaring the petitioners as proclaimed persons in the case without following



the due procedure laid down under Section 82 Cr.P.C. and hence the impugned order is liable to be set aside. He submits that the trial is pending in the Court of learned Judicial Magistrate Ist Class, Gurdaspur, for 05.03.2024 and the petitioners are ready to face the trial.

3. Notice of motion to official respondents.

4. On the asking of the Court, Ms. Navreet Kaur Barnala, AAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

5. Learned counsel for the petitioner has given statement that the respondent No.2 has been inadvertently made party in the present petition and prayed for deleting his name as respondent No.2 since it is a State case. In view of the statement of learned counsel for the petitioner, name of respondent No.2 is ordered to be deleted from the memo of parties.

6. Registry to do the needful.

7. Adjourned to 29.02.2024.

8. In the meanwhile, the petitioners are directed to appear in the trial Court within seven days from today and in the event of their arrest, they are ordered to be released on interim bail on their furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

9. The petitioners are further directed to furnish specific undertaking before the concerned Court that they will regularly appear on each and every date of hearing and in case of any exigency, they will seek exemption from the concerned Court in accordance with law.”



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5. Keeping in view the fact that the petitioner has already appeared in the Court and furnished his requisite bail/surety bonds consequent to the order dated 05.02.2024, passed by this Court, the present petition is allowed. The order dated 05.12.2023 (Annexure P-3), passed by learned Judicial Magistrate Ist Class, Gurdaspur, stands quashed and the interim bail granted vide order dated 05.02.2024 is hereby confirmed.

6. The petition stands disposed of.

(SANJIV BERRY)
JUDGE

18.02.2025
kanika

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |