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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-41499-2024 (O&M)
Date of decision: 05.02.2025

Simranjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sukhbir Maandi, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-42554-2024

Allowed as prayed for.

Documents are taken on record.

2. CRM-M-41449-2024 (O&M)

The instant petition has been filed by the petitioner under Section 482 of Cr.P.C. for quashing of order dated 15.05.2024 (Annexure P-8), passed by the Court of learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib in case titled as *State vs. Simranjit Singh etc.*, arising out of FIR No. 134 dated 10.10.2019, registered under Sections 307, 336, 148, 149 of IPC and Sections 25 and 27 of the Arms Act, 1959 at Police Station Mehta, District Amrirsar (Rural), whereby the petitioner had been declared a proclaimed person.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in the aforesaid case. Co-accused Mehakpreet Singh, Navjot Singh

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@ Jot and Ajay @ Ajju Masih, against whom there were similar allegations and who have faced full length trial, have already been acquitted by the learned trial Court. However, since the petitioner could not appear before the Court, he has been declared a proclaimed person. Even otherwise, the petitioner had been declared a proclaimed person without following the proper procedure prescribed under Section 82 of Cr.P.C. Hence, it is urged that the impugned order is liable to be set aside.

4. Learned State counsel has resisted the petition by submitting that there is no infirmity in the impugned order and the petitioner has rightly been declared a proclaimed person as he was running away from the process of Court. She has, thus, prayed for dismissal of the present petition.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section 82 of Cr.P.C. as against the petitioner till the date of declaring him a proclaimed person, I am of the considered opinion that the impugned order dated 15.05.2024 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

7. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 22.03.2024, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against him for 24.04.2024. When the case was taken up on

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24.04.2024, the proclamation was received executed on 01.04.2024, requiring the petitioner to cause his appearance before the Court on 24.04.2024, which means he was granted less than 30 days' period to cause his appearance before the Court. Hence, the same was in clear violation of the provisions of Section 82(1) Cr.P.C., as per which, a specified time of not less than 30 days is required to be given to the accused from the date of publishing such proclamation which is mandatory in nature. Reliance in this regard can be placed upon ***Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826*** and ***Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339***. More so, while adjourning the case to 22.08.2014 since the mandatory period of 30 days had not elapsed, the trial learned Court failed to consider the fact that it could not have extended the time by simply adjourning the case as a fresh proclamation was required to be published once the period between issuance of publication of proclamation and the specified period of hearing was less than 30 days. Reference in this context can be made to ***Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166***.

8. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 15.05.2024 (Annexure P-8), passed by the Court of learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib in case titled as ***State vs. Simranjit Singh etc.***, arising out of FIR No. 134 dated 10.10.2019, registered under Sections 307, 336, 148, 149 of IPC and Sections 25 and 27 of the Arms Act, 1959 at Police Station Mehta, District Amrirsar (Rural), whereby the petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising

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therefrom. Since the petitioner has shown his *bona fide* to join the Court proceedings, he is directed to surrender before the learned trial Court within a period of 15 days from today and on doing so, the learned trial Court shall release him on bail, subject to his furnishing personal/surety bonds to its satisfaction.

9. Till the appearance of the petitioner before the learned trial Court, his arrest shall remain stayed.

10. It is made clear that in case the petitioner fails to appear before the learned trial Court within the stipulated time, this petition shall be deemed to be dismissed.

11. However, this relief shall be subject to payment of cost of Rs. 10,000/-, to be deposited by the petitioner with the District Legal Services Authority, Amritsar.

05.02.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No