



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47304-2023

Date of Decision:- 19.03.2025

Suresh Kumar @ Bagga

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Munish Puri, Advocate and
Mr. Harsh Thakur, Advocate
for the petitioner.

Mr. Malkit Singh Dhillon, DAG, Punjab.

AMARJOT BHATTI, J. (Oral)

1. Petitioner Suresh Kumar @ Bagga has filed petition under Section 482 Cr.P.C. for quashing of orders dated 06.09.2022 and 29.11.2022 (Annexure P-10 and P-12) vide which proclamation proceedings were initiated and ultimately was declared proclaimed person in complaint case No. COMI/69/2018 titled "Swaran Singh Vs. Gian Chand and ors." or any other direction which the Court may deem fit and proper in the given facts and circumstances of case.

2. Learned counsel for petitioner argued that complaint is filed by complainant as counter blast to FIR No. 109 dated 22.07.2018 at Police Station Mukerian, District Hoshiarpur registered on the statement of Gian Chand (Annexure P-2). In said complaint (Annexure P-1), there was



summoning order dated 01.06.2022 (Annexure P-3). Present petitioner was not aware of pendency of said complaint. He had gone abroad to earn his livelihood. Lastly, he came to India on 17.03.2022 and again left on 16.05.2022. He has annexed copies of previous Passport and recent Passport (Annexures P-4 and P-5). As per order dated 28.07.2022 (Annexure P-6), report was received regarding present petitioner that he was residing out of country. No correct address was furnished by complainant and thereafter, proclamation proceedings were started against present petitioner vide order dated 06.09.2022 (Annexure P-10) through publication in English Tribune and case was adjourned for 04.11.2022. On next date, it was reported that publication was effected on 21.10.2022. Since statutory period of 30 days did not lapse and case was adjourned to 29.11.2022 (Annexure P-11). He was declared proclaimed person along with co-accused on 29.11.2022 (Annexure P-12).

Learned counsel for petitioner pointed out that no proper procedure was followed for issuing process by way of proclamation. Petitioner was granted ad-interim bail vide order dated 19.09.2023 and in pursuance of this, he surrendered before trial Court and was released on ad-interim bail. Said order has been duly complied with. Downloaded copy of order passed by learned Judicial Magistrate Ist Class, Mukerian dated 30.09.2023 is also annexed today. Now, petitioner is facing trial and regularly appearing before trial Court. It is submitted that impugned order dated 06.09.2022 and 29.11.2022 (Annexures P-10 and P-12 respectively) may kindly be quashed.



3. Status report is filed. Considering the aforesaid factual position, it is stated that proclamation proceedings were carried out in consonance with law. Petition filed by petitioner is without merits. However, in view of ad-interim bail, petitioner has appeared before the trial Court and released on bail vide order dated 30.09.2023 and he is facing trial.

4. I have considered the aforesaid facts and documents annexed with present petition. From the documents on record, it is clear that Court was fully aware that present petitioner was residing abroad, as a result, proclamation was ordered to be issued vide order dated 06.09.2022 for 04.11.2022 by way of publication in English Tribune (Annexure P-10). As per order dated 04.11.2022 (Annexure P-11), it is clear that proclamation was issued on 21.10.2022. Therefore, present petitioner was not given statutory period of 30 days to appear before trial Court. Case was further adjourned for 29.11.2022 and on that day, he was declared proclaimed person (Annexure P-12). Therefore, present petitioner was not given clear 30 days to appear before trial Court on the publication of proclamation, thus, proclamation was not done as per provisions of Section 82 of Cr.P.C.

5. Apart from this, petitioner was granted ad-interim bail vide order dated 19.09.2023 and in pursuance of same, he is released on ad-interim bail and is facing trial. Presence of present petitioner is already procured. In the light of this, petition filed by petitioner is accordingly allowed and impugned orders dated 06.09.2022 and 29.11.2022 (Annexure P-10 and P-12 respectively) passed by learned Judicial Magistrate Ist Class, Mukerian are accordingly, quashed and ad-interim bail granted by

2025:PHHC:037723



CRM-M-47304-2023

-4-

Coordinate Bench vide order dated 19.09.2023 stands confirmed.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

19.03.2025

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No