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CRM-M-53521-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-53521-2024
Date of decision: 06.03.2025

GURTEJ SINGH

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Munish Garg, Advocate
for the petitioner.

Mr. Ankit Grewal, DAG Punjab.

.....

SANJIV BERRY, J. (ORAL)

The instant petition under Section 528, BNSS, 2023 has been moved by the petitioner seeking quashing of the order dated 20.09.2024 (Annexure P-5) passed by learned Judge, Special Court, Barnala in case CIS No.NDPS/110/2019, titled '*State of Punjab vs. Gurmeet Singh @ Gopi etc*', whereby the petitioner had been declared as proclaimed person, being the surety of the accused, along with all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner *inter alia* contends that in compliance of the order dated 29.10.2024, petitioner appeared before the learned trial Court on 04.11.2024 and furnished requisite bail bonds, surety bonds and also placed on record copy of order dated 04.11.2024



passed by learned Judge, Special Court, Barnala. He contends that since the petitioner has joined the trial Court proceedings, as such the order dated 20.09.2024 (Annexure P-5) passed by learned Judge, Special Court, Barnala whereby the petitioner had been declared as proclaimed person, being the surety of the accused, along with all consequential proceedings arising therefrom, be quashed.

3. Learned State counsel has not disputed the aforesaid factual matrix of the case and submits that petitioner appeared on 04.11.2024 before the learned trial Court and furnished requisite bail bonds.

4. Heard.

5. During the course of the proceedings, following order was passed on 29.10.2024:-

“ By way of present petition filed under Section 528 of the Bhartiya Nagarik Suraksha Sanhita 2023 (BNSS), the petitioner seeks quashing of the order dated 20.09.2024 (Annexure P-5) passed by learned Judge, Special Court, Barnala, in case CIS No. NDPS/110/2019, titled as ‘State of Punjab vs. Gurmeet Singh @ Gopi etc’ vide which the petitioner had been declared proclaimed person, being the surety of the accused, along with all the consequential proceedings arising therefrom.

2. Heard.

3. It is, inter alia, contended by learned counsel for the petitioner that the petitioner stood surety qua the accused, namely Gurmeet Singh in case FIR No. 38 dated 15.06.2019 under Sections 22, 25 and 61 of the NDPS Act registered at Police Station Mehal Kalan, District Barnala, on the basis of bail granted by the Judge, Special Court, Barnala, on 26.09.2019 (Annexure P-1). He further contends that during the course of trial, the said Gurmeet Singh absented and as per record, notices were sent to the petitioner being the surety.

4. Learned counsel for the petitioner further refers to the order dated 02.08.2024 (Annexure P-3) passed by learned



Judge, Special Court, Barnala, to submit that without any notice of warrants having been executed upon the petitioner, he was ordered to be served through proclamation under Section 82 Cr.PC, despite the fact that Criminal Procedure Code had been repealed on that day. He contends that even otherwise the learned Trial Court had passed the impugned order dated 20.09.2024 (Annexure P-5) declaring the present petitioner as proclaimed person in the case on the basis of statement of the executing official recorded on 06.08.2024 (Annexure P-4). He contends that perusal of the said statement (Annexure P-4) would reveal that no proclamation was ever effected by the executing official and despite that the learned Trial Court had declared the petitioner as proclaimed person in a mechanical manner without following the procedure laid down under the Bhartiya Nagarik Suraksha Sanhita 2023 (BNSS). He further contends that the petitioner is ready to appear in the Trial Court and face the trial.

5. *Notice of motion, returnable for 26.11.2024.*

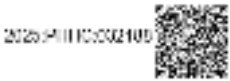
6. *On the asking of the Court, Mr. Adesh Pal Singh, AAG, Punjab, who is present in Court, accepts notice and, on instructions from ASI Gursimranjit Singh, prays to file reply/status report in the matter.*

7. *Keeping in view the above facts and circumstances, the petitioner is directed to appear before the learned Trial Court/Judge on duty within a period of 07 days from today and in that event, learned Trial Court/Judge on duty will admit the petitioner on interim bail subject to its satisfaction and also subject to compliance to the provisions as envisaged under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS).*

8. *The petitioner shall also furnish a specific undertaking before the learned Trial Court/Judge on duty that, in future, he would be regularly appearing before the concerned Court on each and every date and in case of some exigency, he will seek prior permission of the concerned Court qua his exemption to appear on the date fixed.*

9. *Till the next date of hearing, operation of the impugned order dated 20.09.2204 (Annexure P-5) shall remain stayed in the case till next date of hearing.*

10. *Considering the aforesaid facts and circumstances, let the explanation of the learned Trial Court be called as to under what provisions it has declared the petitioner as proclaimed person in the case.*



11. *Needful be done on or before the date fixed.”*

6. Keeping in view the fact that the petitioner has already appeared on 04.11.2024 before the learned trial Court and furnished requisite bail/surety bonds consequent to the order dated 29.10.2024, passed by this Court, the present petition is allowed and order dated 20.09.2024 (Annexure P-5), passed by learned Judge, Special Court, Barnala, whereby the petitioner had been declared as proclaimed person, being the surety of the accused, along with all consequential proceedings arising therefrom is hereby set aside and the interim bail granted vide order dated 29.10.2024 is hereby confirmed.

7. The petition stands disposed of.

06.03.2025
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(SANJIV BERRY)
JUDGE

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