



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

257

CRM-M-58870-2024
Date of decision: 17.01.2025

MANDEEP SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. K.K. Goyal, Advocate
for the petitioner.

Mr. Ankit Grewal, DAG, Punjab.

SANJIV BERRY. J.(Oral)

The instant petition under Section 528 of BNSS has been filed for quashing of the impugned order dated 07.10.2024 (Annexure P-10) passed by the Court of Judicial Magistrate Ist Class, Moga in case FIR No.64 of 2020 dated 10.07.2020 bearing case No.CHI/264-2020 under Sections 323, 325, 34 of IPC vide which the petitioner was declared as proclaimed person.

2. Learned counsel for the petitioner submits that the petitioner had appeared before the learned trial Court in compliance to the order dated 02.12.2024 and vide judgment dated 19.12.2024 passed by Judicial Magistrate First Class, Baghapurana, the petitioner has already been acquitted in this case.

3. Learned State counsel has not disputed this aspect.

4. During the course of proceedings dated 02.12.2024, following order was passed:-

“The instant petition under Section 528 of BNSS has been filed for



quashing of the impugned order dated 07.10.2024 (Annexure P-10) passed by the Court of Judicial Magistrate Ist Class, Moga in case FIR No.64 of 2020 dated 10.07.2020 bearing case No.CHI/264-2020 under Sections 323, 325, 34 of IPC vide which the petitioner was declared as proclaimed person.

2. Learned counsel for the petitioner has placed on record the certified copy of application dated 25.07.2024 and also the statement of Ranjit Singh, father of the petitioner dated 25.07.2024, which is taken on record.

3. Learned counsel for the petitioner, inter alia, contends that the petitioner, after being nominated in case FIR (Annexure P-1), was granted concession of bail vide order dated 25.07.2023 and thereafter he had been regularly appearing in the trial Court. He submits that the petitioner is not having any criminal antecedents and is working as a Sepoy in Indian Army and is currently posted in Dharamshala, Himachal Pradesh. He submits that the application for his exemption was moved on 25.07.2024 before the learned trial Court wherein it was specifically mentioned that the petitioner is employed in Indian Army due to which he cannot appear in Court on the date fixed and had further stated that the petitioner had no objection in case evidence is recorded in his absence but despite that the learned trial Court dismissed the application vide order dated 25.07.2024 (Annexure P-4) and ordered the issuance of non-bailable warrants against the petitioner after cancelling his bail. He further submits that the petitioner never received any non-bailable warrants and on the basis of flimsy reports given by the executing official, the learned Magistrate vide order dated 22.08.2024 (Annexure P-6) issued the proclamation under Section 82 Cr.P.C. for 04.09.2024 totally ignoring the fact that the petitioner was serving in Indian Army and the executing official never went to his unit for getting his service effected. He contends that the learned Magistrate vide impugned order dated 07.10.2024 (Annexure P-10) declared the petitioner a proclaimed person in the case despite the fact that there is no proclamation for the appearance of petitioner in Court on 07.10.2024 and in this way, he has passed the impugned order without following the procedure laid down under Section 82 Cr.P.C. He submits that the absence of the petitioner was not intentional but due to the fact that being working in Indian Army, leave was not granted to him and the next date in the trial Court is 09.12.2024. The petitioner is ready to appear in the trial Court to face the trial.

4. Notice of motion.

5. On the asking of the Court, Ms. Seena Sandhu, Addl. A.G. Punjab, who is present in Court, accepts notice on behalf of the respondent State.

6. List on 18.12.2024.

7. In the meanwhile, the petitioner is hereby directed to appear before the learned Trial Court/Judge on duty within 10 days from today and in the event of his arrest, he is ordered to be released on interim bail on his furnishing personal/surety bonds to the satisfaction of the concerned trial Court/Judge on duty.

8. Till then, the operation of the impugned order dated 07.10.2024 (Annexure P-10) shall remain stayed.

5. Since the petitioner has complied with direction and appeared before the learned trial Court, therefore, the impugned order dated 07.10.2024 (Annexure P-10) is hereby set aside.

6. As regards the concession of bail, since the petitioner has already been acquitted in this case vide judgment dated 19.12.2024, therefore, the petition is disposed of by setting aside the impugned order 07.10.2024 (Annexure P-10).

17.01.2025
amandeep

(SANJIV BERRY)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No