

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

ON THE 10th DAY OF NOVEMBER, 2021

BEFORE

HON'BLE MR. JUSTICE AJAY MOHAN GOEL

CRIMINAL MISC. PETITION (MAIN) U/S 482 CRPC No. 505 of
2021

Between:

SH. VISHAL KHANNA, S/O LATE
SH. JOGINDER KHANNA,
RESIDENT OF H. NO. 3066/2,
FIRST FLOOR, STREET NO.10,
RANJIT NAGAR, PATEL NAGAR,
NEW DELHI.

....PETITIONER.

(BY MR. ROHIT SADANA, ADVOCATE)

AND

STATE OF HIMACHAL PRADESH
THROUGH ITS SECRETARY
(HOME) TO THE GOVERNMENT
OF HIMACHAL PRADESH,
SHIMLA-171002.

....RESPONDENT.

(BY MR. ASHOK SHARMA, ADVOCATE GENERAL, MR.
ADARSH SHARMA AND MR. SANJEEV SOOD, ADDITIONAL
ADVOCATES GENERAL WITH MR. KAMAL KANT CHANDEL,
DEPUTY ADVOCATE GENERAL, FOR RESPONDENT.

Whether approved for reporting?¹No

*This petition coming on for orders this day, the Court passed the
following:*

J U D G M E N T

By way of this petition filed under Section 482 of the Code of Criminal Procedure, the petitioner has prayed for the following relief:-

The present petition may kindly be accepted and the order dated 29.09.2011 passed by the Court of learned JMIC, Nalagarh, District Solan, HP, declaring the petitioner herein as a Proclaimed Offender in case FIR No. 119 of 2008 of Police Station Barotiwala under Sections 381, 420, 468 and 471 of IPC, may kindly be set aside/quashed.

When the matter was being heard, this Court made an observation that it will be in the interest of justice in case the petitioner rather than pursuing this particular petition, approaches the learned Court below for recalling the order vide which he has been declared as a Proclaimed Offender.

Learned counsel for the petitioner submits that the petitioner is not averse to the same but in view of the impugned order being there on the case file, he will first have to surrender. He further submits that it will be in the interest of justice in case the petitioner is granted some reasonable time to approach the learned Court below praying for recalling of the order vide which he was declared as a Proclaimed Offender and till then his arrest be stayed.

This Court is of the considered view that it will be in the interest of justice in case protection is granted to the petitioner to the effect that he shall not be arrested for four weeks from today with regard to FIR No. 119 of 2008 dated 30.09.2008, registered

under Sections 381, 420, 448 and 471 of IPC, at Police Station Barotiwala, to enable him to approach the learned Trial Court praying for recalling of the order vide which he has been declared as a Proclaimed Offender.

Learned Deputy Advocate General submits that the State is not averse to the suggestions which is being put forth by the Court but it may be clarified that in case the petitioner does not approaches within an appropriate application before the learned Trial Court within a period of four weeks from today then the protection so granted to the petitioner by the Court will automatically cease to be effective.

Having heard learned counsel for the parties and having gone through the documents appended therewith, in view of the above discussions, without going into the merit of this petition, the same is disposed of with the direction that the petitioner is hereby given liberty to approach the learned Trial Court for recalling of order dated 29.09.2011 vide which he has been declared as Proclaimed Offender and up to 7th of December, 2021, the petitioner shall not be arrested with regard to FIR No. FIR No. 119 of 2008 dated 30.09.2008, registered under Sections 381, 420, 448 and 471 of IPC, at Police Station Barotiwala or on the basis of the order vide which he has been declared as a Proclaimed Offender.

It is clarified that in case the petitioner does not approaches the learned Trial Court in terms of this above order up

to 7th December, 2021, then the protection granted to him shall seize to operate. It is further clarified that in the event of the petitioner approaching the learned Court below and filing an application for recalling the order vide which he was declared as a Proclaimed Offender then the same be decided by the learned Trial Court on its own merit uninfluenced by any observation made by this Court in this order. Miscellaneous applications, if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

November 10, 2021
(*vinod*)