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Sr. No.121

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42162-2018
Date of decision:24.09.2018

Mukesh Kumar @ Toni and another

.....Petitioners

versus

State of Punjab

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Arshdeep Singh Brar, Advocate
for the petitioners.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for setting aside the Order dated 07.04.2018 declaring the petitioners as proclaimed persons in FIR No.86 dated 18.05.2014 for the offences punishable under Sections 380/511 of IPC at Police Station Moga, District Moga.

Learned counsel for the petitioners contends that the FIR is of the year 2014. The petitioners were granted anticipatory bail in the case. Thereafter, the police had declared the petitioners as innocent persons. But Subsequently, as it has turned up now, the Trial Court had summoned the petitioners by exercising its powers under Section 319 Cr.P.C. However, the petitioners were never served with any summons/notice or warrant issued by the Court. It is further contended that; in view of the above facts; the procedure prescribed; for declaring a person as proclaimed person; has not been fully complied with. It is contended by the counsel for the petitioners that the petitioners have no intention to flee from the course of justice. They intend to appear before the Trial Court. The only prayer is

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that the petitioners be protected from the arrest.

Notice of motion.

On the asking of the Court, Shri K.S.Aulakh, DAG, Punjab accepts notice on behalf of the State of Punjab and submits that he has no objection if the petitioner appears before the Trial Court

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

In view of the above, the present petition is allowed subject to the petitioners appearing before the Trial Court on or before 04.10.2018. It is further directed that in case, the petitioners so appear before the Trial Court then the petitioners shall be released on bail on their furnishing bail bonds/sureties to the satisfaction of the Trial Court.

24th September, 2018 **[RAJBIR SEHRAWAT]**
Shivani Kaushik **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*