

S.No.122

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-42550 of 2018 (O&M)

Date of Decision:26.09.2018

Chander ShekharPetitioner

Vs.

State of Punjab and anotherRespondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Vijay Rana, Advocate
for the petitioner.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner seeking quashing of the impugned order dated 17.12.2016 (Annexure P.3) passed by learned Sub Divisional Judicial Magistrate, Garhshankar, District Hoshiarpur; declaring the petitioner as Proclaimed Offender in case FIR No.123 dated 16.10.2013 registered under Sections 323, 325 and 149 of IPC at Polcie Station Garhshankar, District Hoshiarpur.

Counsel for the petitioner submits that the FIR in this case is of the year 2013. After investigation, the petitioner was found to be innocent, therefore, no challan was filed against him. Thereafter, the petitioner had gone abroad. In his absence, the petitioner was summoned by the Court by exercising powers under Section 319 Cr.P.C. However, the petitioner was never served with any notice or summons; which might have been issued by the trial Court. It is further contended by counsel for the petitioner that the petitioner has no intention to flee from course of justice. Now since the petitioner has come to know of these proceedings, therefore, , he intends to appear before the trial Court. The only prayer is that he be protected against his arrest.

Notice of motion to respondent No.1 only.

On asking of the Court, Mr. K.S. Aulakh, DAG, Punjab, accepts notice on behalf of the State and states 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 petitioner's appearing before the trial Court on or before 04.10.2018. If the petitioner so appears before the trial Court then he shall be released on interim bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

September 26, 2018
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No