

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

**CRM NO. M-47496 OF 2018  
DATE OF DECISION : 26.10.2018**

**Jaswinder Singh @ Ricky**

**...Petitioner**

**versus**

**State of Punjab**

**...Respondent**

**CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present : Mr. A. K. Gupta, Advocate,  
for the petitioner.

**RAJBIR SEHRAWAT, J. (ORAL)**

Prayer in the present petition is for quashing the order dated 27.10.2017 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Jalandhar in case FIR No.192 dated 30.11.2015 under Sections 323/324/341/427/34 IPC registered at Police Station Kartarpur, District Jalandhar, whereby the petitioner has been declared as proclaimed offender, while marking the presence of accused.

Learned counsel for the petitioner contends that as per the facts on record, the challan was presented on 08.08.2017 in the absence of accused. Thereupon, the trial Court issued non-bailable warrants qua all the accused, including the petitioner for 27.10.2017, vide order dated 08.08.2017. On 27.10.2017, one accused is shown to be present, whereas it is recorded in the

presence record; that the petitioner is a proclaimed offender.

Learned counsel for the petitioner submits that even as per the order passed by the trial Court on 08.08.2017, only non-bailable warrants were issued. No proceedings for declaring the petitioner as proclaimed person/offender under Section 82 Cr.P.C, were ever initiated. Therefore, the petitioner has been wrongly shown as proclaimed offender in the order dated 27.10.2017. Hence, it is argued that if there is any order passed by the Court, declaring the petitioner as proclaimed offender, same is totally illegal and has been passed without following due procedure; as prescribed under Section 82 Cr.P.C.

Learned counsel has also submitted that file of the trial Court was also inspected and there is no order on file declaring the petitioner as proclaimed offender as such. However, since the petitioner has now come to know of the order declaring him as the proclaimed person, therefore, he intends to appear before the trial Court. The only prayer is that the petitioner be protected from the arrest.

Notice of motion.

At the asking of Court, Mr. K. S. Aulakh, Deputy Advocate General, Punjab, accepts notice on behalf of the respondent-State and submits that he has no objection if the petitioner appears before the trial Court. Copy of the paper-book be supplied to him during the course of day.

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 appearing before the trial Court on or before 12.11.2018. It is further directed that in case the petitioner so appears before the trial Court, then the petitioner shall be released on bail on his furnishing bail bond/surety to the satisfaction of the trial Court.

**(RAJBIR SEHRAWAT)**  
**JUDGE**

**OCTOBER 26, 2018**  
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Whether speaking/reasoned : YES/NO  
Whether reportable : YES/NO