

**127/2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-52471-2018 (O&M)

Date of decision:28.11.2018.

Kapil Takiar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition is for quashing of the impugned order dated 17.08.2015 passed by the Judicial Magistrate 1st Class, Phillaur, vide which, the petitioner has been declared as proclaimed offender in the criminal Complaint case No. 2185 of 2013 dated 15.11.2013.

Counsel for the petitioner contends that even as per the record of the trial Court, the proclamation was issued vide order dated 22.04.2015 for 21.05.2015. However, the record of the trial Court itself shows that the notice was pasted on the door of the house of the petitioner only on 20.05.2015. Hence, it is contended by the counsel that even if the service report is taken to be correct, then also the petitioner had got only one day's time, as against the required 30 days time for appearing before the Court. But counsel for the petitioner has contended that even this so called service report is manipulated and, in fact, no notice was ever pasted on the door of the house of the petitioner. The petitioner has been got declared as proclaimed offender in total violation of Section 82 of Cr.P.C. However, since the petitioner has now come to know of the proceedings against him, therefore, the petitioner intends to appear before the trial Court to face the

further proceedings. It is further contended by counsel for the petitioner that he has no intention to flee from the course of justice. He would regularly appear before the trial Court. The prayer made is only that the petitioner be protected from the arrest.

Notice of motion.

Mr. K.S.Aulakh, DAG, Punjab accepts notice on behalf of the State.

Heard.

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 12.12.2018. 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

28.11.2018

Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No