

Sr. No.128

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

**CRM-M-53066-2018
Date of decision:30.11.2018**

Gurpreet Singh @ Gopi

.....Petitioner

versus

State of Punjab

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Jasmeet Singh Ghumman, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed seeking quashing/setting aside the order dated 03.07.2010 whereby the petitioner was declared as a proclaimed offender in FIR No.2 dated 01.01.2009 registered under Section 22 of the Narcotics Drugs and Psychotropic Substances Act, 1985 at Police Station Division No. Goraya, Jalandhar.

Learned counsel for the petitioner submits that before the proceedings were initiated against the petitioner; he had already left for abroad on 03.01.2010. Thereafter, the petitioner has been declared as Proclaimed offender vide Order dated 03.07.2010. Since the petitioner was abroad at the relevant time, therefore, the notice as required under Section 82 Cr.P.C. was never served upon the petitioner. Hence the order passed against the petitioner has come into existence without following the procedure prescribed under Section 82 Cr.P.C.. Otherwise also, it is submitted that co-accused of the petitioner; who had faced the trial in the mean-time; has been acquitted by the Trial Court. The petitioner has now

returned to India on 01.11.2018. Now he has come to know of the adverse order against him. Therefore, the petitioner intends to appear before the Trial Court. The only prayer is that the petitioner 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 petitioner appearing before the trial Court on or before 07.12.2018. 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.

30th November, 2018

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*