

Sr. No.128

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

CRM-M-61796-2018(O&M)

Date of decision:20.12.2018

Lakhwinder Singh

.....Petitioner

versus

State of Punjab and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Dr.Anmol Rattan Sidhu, Sr.Advocate with
Mr. Manhar S.Saini, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for quashing of Order dated 17.12.2014(Annexure P-6) passed by the learned Sub-Divisional Judicial Magistrate, Dasuya vide which petitioner has been erroneously declared as a proclaimed offender.

Learned counsel for the petitioner submits that the impugned Order declaring the petitioner as proclaimed offender has been passed wrongly. It is submitted that the Complaint is based on the allegation that the mutation of the property was wrongly entered in the name of the petitioner and his other brothers on the basis of forged Will of late Smt. Amar Kaur. It is contended by the counsel that even when the alleged Will was executed, the present petitioner was abroad. He was also abroad when mutation was entered, when the Complaint was filed and also when the petitioner was declared as proclaimed offender. It is further contended by the counsel that although the petitioner had come to India once in the year, 2003 and again in the year, 2013, however, the petitioner was never made

aware of any proceedings pending against him. It is only after the petitioner had returned abroad that he was declared as Proclaimed Offender in the year 2014. It is submitted by the counsel that since now the petitioner has come to know of the proceedings, therefore, the petitioner intends to appear before the Trial Court to face further proceedings. The petitioner has no intention to flee from the course of justice. He intends to appear before the Trail Court. The only prayer is that the petitioner be protected from the arrest.

Notice of motion.

On the asking of the Court, Shri Hitten Nehra, Addl.AG, 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 04.02.2019. 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.

20th December, 2018

Shivani Kaushik

[RAJBIR SEHRAWAT]

JUDGE

Whether speaking/reasoned *Yes/No*
Whether Reportable *Yes/No*