

Sr. No.119

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

CRM-M-6683-2019(O&M)

Date of decision:24.05.2019

Kuldeep Singh

..... Petitioner

versus

State of Punjab and another

..... Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. G.S.Brar, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed seeking quashing of FIR No.21 dated 10.02.2011 for the offences punishable under Sections 406/420 IPC registered at Police Station Raikot, District Ludhiana and Order dated 20.12.2011(Annexure P-2) vide which the petitioner was declared as proclaimed offender by the learned JMIC, Jagraon and the consequential proceedings arising therefore.

Learned counsel for the petitioner contends that the petitioner has been abroad since the year 2004. Therefore, even on the date of FIR, the petitioner was not in India. His name has been sought to be included in the case only on the basis of some alleged promise made by him when he was abroad. After the year 2004, the petitioner has never visited India, therefore, he could not be served with any notice, summon or warrants issued by any Court of law. Therefore, the procedure prescribed under Section 82 Cr.P.C has not been properly followed before passing the impugned orders against the petitioner. 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 further proceedings in accordance with law. The petitioner does not have any intention to flee from the course of justice. 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

At this stage, this Court does not find it necessary to issue the notice to respondent No.2, in view of the nature of the Order intended to be passed hereinbelow.

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 and the Order dated 20.12.2011(Annexure P-2) is quashed, subject to the petitioner appearing before the trial Court on or before 26.07.2019. 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.

24th May, 2019

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*