

Sr. No.128

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

CRM-M-17064-2019(O&M)

Date of decision:12.04.2019

Manoj Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for quashing of the Order dated 08.01.2019(Annexure P-4) passed by the JMIC Ist Class, Amritsar whereby the petitioner has been declared proclaimed person in FIR No.64, dated 08.04.2017 registered under Sections 379/411 IPC at Police Station B Division, Amritsar.

Learned counsel for the petitioner contends that in this very case, the petitioner was earlier granted bail by the Trial Court. He duly appeared before the Court to face the proceedings. Charge had also been framed by the Trial Court. However, on 16.10.2018, the petitioner could not appear before the Trial Court because he had noted wrong date as 10.01.2019. However, subsequently when the petitioner confirmed the date, he came to know that his bail had already been cancelled vide Order dated 16.10.2018 and in the proceedings he had been declared as proclaimed person. It is further submitted by the counsel that, in fact, the petitioner was never served with any notice, summon or warrant issued by the Trial

Court. Serving constable has mislead the Trial Court with the wrong service report. Since the petitioner has now come to know of the fact that he has been declared as proclaimed person, therefore, the petitioner intends to appear before the Trial Court, to face further proceedings in accordance with law. It is further contended by counsel for the petitioner that the petitioner has no intention to flee from the course of justice. He intends to appear before the Trail Court now. The only prayer is that the petitioner be protected from the arrest.

Notice of motion.

On the asking of the Court, Shri Prabhjot Singh Walia, AAG, 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 24.04.2019. 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.

12th April, 2019

Shivani Kaushik

[RAJBIR SEHRAWAT]

JUDGE

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