

S.No.125

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

CRM-M-16751 of 2019 (O&M)

Date of Decision:11.04.2019

RahulPetitioner

Vs.

State of HaryanaRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Atul Lakhanpal, Senior Advocate with
Ms. Bably Kumari, Advocate for the petitioner.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner seeking quashing of order dated 17.12.2018 passed by learned Sub Divisional Judicial Magistrate, Ratia declaring the petitioner as proclaimed offender in case FIR No.102 dated 03.03.2018 registered under Sections 148, 149, 285, 302, 307, 506, 452, 323, 201 IPC and 25, 27 of Arms Act at Police Station Ratia, District Fatehabad.

Learned counsel for the petitioner submits that the petitioner is a young body of 20 years and was a student on the date of occurrence. He was studying in 10+2 in P.L. Jindal Convent School, Ratia. The petitioner was never sought to be arrested by the Police in the case. Throughout the time, the petitioner was either at his home or attending classes in the school. However, suddenly the petitioner came to know that his name has been dragged in the case. Then he filed an application for anticipatory bail. During proceedings of the application seeking anticipatory bail, the petitioner came to know that another order dated 17.12.2018 has been passed by Judicial Magistrate Ist Class, Ratia declaring the petitioner as a proclaimed offender. However, this order has been passed in total

contravention of the provisions of Section 82 Cr.P.C. The petitioner was never served with any notice, summon or warrant issued by any Court. Even the Police had never called the petitioner to join any investigation. When the petitioner is shown to have been declared proclaimed offender, he was very much available in village. Hence, the Court of learned Magistrate has been misled by the Police official with a fabricated service report. However, since the petitioner has now come to know of the fact that he is required in the proceedings before the Court, therefore, he is ready to appear before the Police to join the investigation or before the Court to join further proceedings. The petitioner does not have intention to flee from course of justice. The only prayer is that the petitioner be protected against his arrest.

Notice of motion.

On asking of the Court, Mr. Vikas Malik, DAG, Haryana, accepts notice on behalf of the State. He has no objection if the petitioner joins the proceedings before the Court or the proceedings of investigation before the Police, as the case may be.

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 Investigating Officer on or before

22.04.2019. It is further directed that in case the petitioner so appears before the Investigating Officer on or before 22.04.2019 then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the Arresting Officer. The petitioner shall abide by the conditions as mentioned in Section 438(2) Cr.P.C.

April 11, 2019	(RAJBIR SEHRAWAT)
renu	JUDGE
Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No