

Sr. No.128

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

CRM-M-17810-2019

Date of decision:22.04.2019

T.Venkatraman

.....Petitioner

versus

State of Haryana and another

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Ramandeep Singh, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed seeking quashing of the Order dated 17.01.2019(Annexure P-10) whereby the petitioner has been declared as proclaimed person in Complaint dated 13.07.2016(Annexure P-1) bearing CIS No. 8456/2016 registered on 13.07.2016 under Sections 138 and 142 of the Negotiable Instruments Act, 1881.

Learned counsel for the petitioner contends that the petitioner had been appearing before the Trial Court regularly. However, on 01.09.2018, the petitioner had moved an application for exemption from appearance before the Trial Court. But that application was dismissed by the Trial Court and the bail granted to the petitioner was cancelled. Thereafter, non-bailable warrants were issued against the petitioner and the proceedings for declaring the petitioner, as proclaimed person were initiated. It is further submitted by the learned counsel that on the date when the bail was cancelled, as well as subsequent thereto, the petitioner had been coming to Gurugram to attend the Court proceedings. As a proof thereof, the

petitioner has attached the return air tickets from Bangalore to Delhi. However, since the petitioner does not understand well either Hindi or English language, due to linguistic problem, therefore, because of communication gap between the petitioner and his counsel, the petitioner could not actually appear before the Trial Court. Hence the Court has declared the petitioner as proclaimed person. It is submitted that when the petitioner was appearing, the complainant had even entered into a kind of compromise and under that understanding between the parties, the petitioner had even been making payments to the complainant. Hence, it is submitted that the petitioner has no intention to flee from course of justice. He intends to appear before the Trial Court to face the proceedings in accordance with law. The only prayer is that the petitioner be protected from the arrest.

Notice of motion.

On the asking of the Court, Shri M.D.Sharma, AAG, Haryana accepts notice on behalf of the State 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

impugned order is quashed subject to the petitioner appearing before the Trial Court on or before 02.05.2019. 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.

22nd April, 2019

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*