

S.No.121

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

CRM-M-21544 of 2019 (O&M)

Date of Decision:26.07.2019

Harjinder Kumar @ Rishu

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- None.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner for quashing the order dated 05.05.2018 vide which the petitioner has been declared as Proclaimed Offender passed in FIR No.192 dated 3.10.2013 registered under Sections 279/337/427 IPC and 61/1/14 of the Punjab Excise Act, 1914 at Police Station City Kotkapura, District Faridkot.

It is the case of the petitioner that the petitioner was granted anticipatory bail by the High Court vide order dated 25.03.2014. Thereafter, the petitioner regularly appeared before the trial Court. However, on 09.01.2017, the petitioner could not appear before the trial Court, rather an application for exemption from personal appearance was moved. But the same was rejected by the trial Court. Bail bonds were cancelled and the warrants of arrest was issued against the petitioner. Thereafter, the petitioner remained bed ridden for a long time due to illness. Therefore, he could not appear before the trial Court. Accordingly, vide order dated 05.05.2018, the petitioner was declared Proclaimed Offender. However, subsequently, even the main accused have already been released on probation by the trial Court. But the trial against the petitioner could not be proceeded further because of his absence due to illness. So far as the

order of declaring the petitioner as Proclaimed Offender is concerned, the same has been passed without properly following the procedure prescribed under Section 82 Cr.P.C. The petitioner has no intention to flee from course of justice. He intends to appear before the trial Court. However, prayer is that the petitioner be protected against his arrest.

Keeping in view the nature of the order being passed, this Court does not consider it necessary to issue any notice to the other side.

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 impugned order is quashed, subject to the petitioner appearing before the trial Court on or before 14.08.2019. It is further directed that in case the petitioner so appears before the trial Court on or before 14.08.2019 then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

July 26, 2019**renu****(RAJBIR SEHRAWAT)****JUDGE**

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No