

S.No.117

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

CRM-M-47715 of 2018 (O&M)

Date of Decision:15.05.2019

Varinder SinghPetitioner

Vs.

State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Ravi Malhotra, Advocate
for the petitioner.

Rajbir Sehrawat, J.(Oral)

This is a petition seeking quashing of order dated 02.07.2016 whereby the petitioner has been declared as proclaimed offender in FIR No.74 registered under Sections 323/365/341/427/148/149/379/506 IPC dated 29.07.2012 at Police Station Bhogpur, District Jalandhar City.

It is contended by counsel for the petitioner that in this very case, the petitioner was earlier granted bail by the trial Court. Thereafter, upto the year 2016, the petitioner kept on appearing before the trial Court. However, thereafter, the petitioner had to go abroad in connection with a family affair. Thereafter, the petitioner had returned to India only in the year 2018. In the meantime, the petitioner has been declared as a proclaimed offender vide impugned order. It is further submitted that since the petitioner was abroad, therefore, the process of service upon the petitioner has not been followed in accordance with the procedure prescribed under Section 82 Cr.P.C. The petitioner was never served with any notice, summon or warrant issued by any Court, before issuing the proclamation. Still further, it is submitted that since the co-accused have already been convicted and the petitioner has now come to know that he has

been declared proclaimed offender, therefore, he 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 course of justice. The only prayer is that the petitioner be protected against his arrest.

Notice of motion.

Mr. Prabhjot Singh Walia, AAG, Punjab, accepts notice on behalf of the State. Learned State Counsel does not have any objection if the petitioner appears before the trial Court to face further proceedings.

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 27.05.2019. It is further directed that in case the petitioner so appears before the trial Court on or before 27.05.2019 then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

May 15, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No