

S.No.128

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

CRM-M-22706 of 2019 (O&M)

Date of Decision:17.05.2019

Gurjinder Singh @ Soni

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Malkiat Singh Hundal, Advocate
for the petitioner.

Rajbir Sehrawat, J.(Oral)

This is a petition seeking quashing and setting aside of the order dated 11.02.2019 passed by Sub Divisional Judicial Magistrate at Nakodar in case No.CHI/518/2013 titled “State v. Jagminder Singh” in FIR No.7 dated 16.01.2011 registered at Police Station Nakodar, District Jalandhar whereby the petitioner was declared as a proclaimed offender without appreciating the fact that the petitioner was in judicial custody in FIR No.73 dated 26.08.2018 registered at Police Station Mehtra, Amritsar.

It is submitted by counsel for the petitioner that in this very case, the petitioner was granted bail pending trial. Thereafter, the petitioner was appearing before the trial Court. On one date, the petitioner could not appear before the trial Court. Therefore, warrants were issued against the petitioner. Thereafter, the process under Section 82 Cr.P.C was started against the petitioner. However, during the entire period, the petitioner was already in custody in another case. He was released from custody in the said another case on 06.03.2019. However, in the meantime, the impugned order declaring the petitioner as proclaimed offender had already been passed on 11.02.2019. It is further submitted by the counsel for the

petitioner that non-appearance of the petitioner before the trial Court was not intentional. He could not appear before the Court because he was in custody in another case. Since he was in custody, therefore, he was not even served with any notice, summon or warrant; before declaring him as proclaimed offender. It is also submitted that for the offences, under the Sections which have been alleged against the petitioner, the petitioner could not have been declared as a proclaimed offender. Rather at the best, he could have been declared proclaimed person. Still further, it is submitted by the petitioner that he does not have any intention to flee from course of justice. He intends to appear before the trial Court to face further proceedings in accordance with law. 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 and the impugned order dated 11.02.2019 is quashed, 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 17, 2019

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(RAJBIR SEHRAWAT)

JUDGE

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