

S.No.118

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

CRM-M-23228 of 2019 (O&M)

Date of Decision:21.05.2019

Sarwan Singh and others

.....Petitioners

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Karan Bhardwaj, Advocate
for the petitioners.

Rajbir Sehrawat, J.(Oral)

This is a petition seeking quashing of order dated 06.05.2019 passed by learned Judicial Magistrate, First Class, Dasuya in FIR No.105 dated 11.06.2013 registered under Sections 323, 324, 341, 148, 149, 379 IPC (Section 326 added later on) at Police Station Dasuya, District Hoshiarpur whereby the petitioners were declared as a proclaimed persons.

Learned counsel for the petitioners contends that in this very case, the petitioners had been granted bail pending trial in the year 2015. Thereafter, the petitioners had been regularly appearing before the trial Court till 2019. However, on 26.01.2019, another FIR was lodged against the petitioners. Since they were apprehending in another FIR, therefore, the petitioners moved an application before the trial Court in this case for exemption from personal appearance. However, on 15.02.2019, the said application was dismissed and the bail granted to the petitioners was cancelled by the trial Court. Thereafter, the petitioners were declared proclaimed persons by the trial Court vide order dated 06.05.2019. It is

further contended by the counsel for the petitioners that neither the non-appearance by the petitioners before the trial Court was intentional nor the procedure prescribed under Section 82 Cr.P.C have been followed properly, before declaring the petitioners as proclaimed persons. It is pointed out by counsel for the petitioners that in another FIR, the petitioners had surrendered before the Court and ultimately, they were granted bail by the trial Court on 03.05.2019. Hence, it is further submitted that, however, the petitioners do not have intention to flee from course of justice. They intend to appear before the trial Court to face further proceedings in accordance with law. The only prayer is that the petitioners be protected against their arrest.

Notice of motion.

Mr. K.S. Aulakh, DAG, Punjab, accepts notice on behalf of the State. Learned State Counsel does not have any objection if the petitioners appear 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 is set aside, subject to the petitioners appearing before the trial Court on or before 28.05.2019. It is further directed that in case the petitioners so appear before the trial Court on or before 28.05.2019 then

they shall be released on bail on their furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

May 21, 2019	(RAJBIR SEHRAWAT)
renu	JUDGE
Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No