

Sr. No.119

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

**CRM-M-23280-2019(O&M)
Date of decision:22.05.2019**

Gurmeet Singh

..... Petitioner

versus

State of Punjab and another

..... Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Ms. Surinder Kaur, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for quashing of Order dated 10.07.2017(Annexure P-5), vide which the petitioner has been declared as proclaimed offender in Complaint No. 125/1/2009 dated 23.10.2004 under Sections 323/324/326/452/506/34 IPC pending before the JMIC, Jalandhar.

Learned counsel for the petitioner contends that although the complaint in this case was lodged in the year 2004, however, even the summoning order was passed in this case on 15.02.2006 only. But before that the petitioner had already gone abroad on 27.01.2006. Thereafter, the petitioner has never come back to India. Hence the petitioner was not even aware of the proceedings against him. Since the petitioner was abroad through out this period, therefore, no notice, summon or warrants were ever served upon the petitioner. Therefore, the procedure prescribed under Section 82 Cr.P.C has not been properly followed before declaring the petitioner as a proclaimed offender. Still further it is submitted that since now the petitioner has come to know of the proceedings pending against him, 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 the course of justice. The only prayer is that the petitioner be protected against his arrest. It is also submitted that no FIR under Section 174A IPC has been registered against the petitioner.

Notice of motion.

On the asking of the Court, Shri K.S.Aulakh, DAG, Punjab accepts notice on behalf of the State of Punjab 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 the Order dated 10.07.2017(Anneuxre P-5) is quashed; subject to the petitioner appearing before the trial Court on or before 08.07.2019. 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 May, 2019

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*