

S.No.137

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

CRM-M-25983 of 2019 (O&M)

Date of Decision:31.05.2019

BuntyPetitioner

Vs.

State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Mandeep Kumar Dhot, Advocate
for the petitioner.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner seeking quashing of the order dated 29.01.2019 whereby he has been declared proclaimed offender in case FIR No.21 dated 07.03.2017 registered under Sections 356, 379-B, 34 IPC at Police Station Chajjali, District Sangrur.

Learned counsel for the petitioner submits that in this very case, the petitioner was earlier released on bail by the trial Court. He was regularly appearing before the trial Court to face the proceedings. However, on 30.08.2018, the petitioner could not appear before the trial Court. Accordingly, the bail granted to the petitioner was cancelled and the proceedings under Section 82 Cr.P.C were initiated. In these proceedings, the impugned order has been passed on 29.01.2019; declaring the petitioner as a proclaimed offender. However, it is further submitted that the absence of the petitioner before the trial Court was not intentional. In fact, on 27.05.2018, another FIR No.77 was registered against the petitioner under Excise Act and in that case, the petitioner was taken into custody and released on bail only on 11.01.2019. Therefore, during interregnum, the petitioner could not appear before the trial Court in the present case. It is also submitted that since the petitioner was already in custody, therefore, no

notice, summon or warrants were ever served upon the petitioner before declaring him Proclaimed Offender. It is also submitted that since the petitioner was already in custody of the State, therefore, the petitioner cannot, otherwise also, be declared as a Proclaimed Offender.

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.

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 06.06.2019. It is further directed that in case the petitioner so appears before the trial Court on or before 06.06.2019 then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

May 31, 2019
renu

(RAJBIR SEHRAWAT)
JUDGE

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