

S.No.136

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

CRM-M-27514 of 2019 (O&M)

Date of Decision:01.07.2019

Baru Ram and another

.....Petitioners

Vs.

State of Haryana and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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

Rajbir Sehrawat, J.(Oral)

This is a petition seeking quashing of order dated 26.10.2018 vide which the petitioners have been declared proclaimed person in complaint No.822/2016 dated 24.10.2016 under Section 138 of NI Act.

It is contended by counsel for the petitioners that as per the allegations in the case, the petitioners are alleged to have availed agricultural loan from the Bank and given the cheque as security for repayment of the loan. On default in payment of the amount of the cheques, the complaint has been filed by the Bank under Section 138 of NI Act, in which the petitioners have been declared as a proclaimed person. It is further submitted that the petitioners have never been served with any notice, summons or warrants issued by the Court in this regard. The serving constable has made an incorrect report qua service of process upon the petitioners. However, since the petitioners have now come to know of the fact that they are required to appear before the Court of law, they intend to appear before the trial Court to face further proceedings in accordance with law. The petitioners do not have any intention to flee from course of justice.

The only prayer is that they be protected against their arrest.

Notice of motion to respondent No.1 only.

Mr. M.D. Sharma, AAG, Haryana, 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 impugned order is quashed subject to the petitioners appearing before the trial Court on or before 17.07.2019. It is further directed that in case the petitioners so appear before the trial Court on or before 17.07.2019 then they shall be released on bail on their furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

July 01, 2019

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(RAJBIR SEHRAWAT)

JUDGE

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No