

S.No.103

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

CRM-M-33012 of 2019 (O&M)

Date of Decision:09.08.2019

Bikramjit Singh @ Bikkar

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- None.

Rajbir Sehrawat, J.(Oral)

This is a petition seeking quashing of orders dated 18.12.2018 passed by learned Special Court, Amritsar declaring the petitioner as proclaimed offender in FIR No.85 dated 22.05.2017 under Section 21/29 of NDPS Act, 1985 at Police Station Lopoke Amritsar with a further prayer for releasing the petitioner on bail in the above said FIR.

It is the case of the petitioner that in this very case, earlier the petitioner was granted bail pending trial. Thereafter, he was appearing before the trial Court. But subsequently, he could not appear before the trial Court, therefore, the bail granted to him was cancelled and warrants of arrest were issued against him. Thereafter, vide the impugned order dated 18.12.2018, the petitioner was even declared proclaimed offender. However, it is the assertion of the petitioner that non-appearance of the petitioner before the trial Court was only due to mistaken impression, but bonafide believe; that he was not required to appear before the trial Court because in a Criminal Revision filed by him, this Court had issued a direction to the trial Court to adjourn the case beyond the date fixed before this Court. However, the petitioner 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. It is also asserted by the petitioner that the petitioner was never served with any notice, warrants or proclamation before passing the impugned order. Otherwise also, the petitioner cannot be declared a proclaimed 'offender' because the offence alleged against the petitioner do not fall within the scope of the offences for which an accused can be declared as a proclaimed offender.

In view of the nature of the order which this Court intends to pass, the Court does not find it necessary to issue any notice to the opposite side. Hence, the present petition is being disposed of without issuance of the notice to the respondent.

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 petitioner appearing before the trial Court on or before 27.08.2019. It is further directed that in case the petitioner so appears before the trial Court on or before 27.08.2019 then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

August 09, 2019

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(RAJBIR SEHRAWAT)

JUDGE

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No