

S.No.148

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

CRM-M-34639 of 2019 (O&M)

Date of Decision:26.08.2019

Gurmit Singh @ Kalu

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Vivek K. Thakur, Advocate
for the petitioner.

Rajbir Sehrawat, J.(Oral)

This is a petition seeking quashing/setting aside of order dated 08.07.2019 passed by Additional Sessions Judge, Kapurthala in case FIR No.148 dated 27.09.2005 registered under Sections 379, 402, 399 IPC and Section 25 of the Arms Act, 1959 at Police Station Sadar Phagwara.

It is contended by learned counsel for the petitioner that although earlier the petitioner was declared proclaimed offender, however, thereafter the petitioner had surrendered and he was released on bail. Thereafter, the petitioner was regularly appearing before the trial Court. The case was fixed for 15.05.2019. Thereafter, the case was adjourned to 08.07.2019. However, by an inadvertent mistake, the petitioner noted the date wrongly as 07.08.2019. Hence, the petitioner could not appear on 08.07.2019. As a result, the bail granted to the petitioner has been cancelled and warrants of arrest have been issued against him. Therefore, the petitioner apprehends his arrest. It is further submitted by the counsel that absence of the petitioner from the trial Court was not intentional. It has occurred because of the inadvertent mistake. 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.

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 petitioner appears 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 petitioner appearing before the trial Court on or before 29.08.2019. It is further directed that in case the petitioner so appears before the trial Court on or before 29.08.2019 then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

August 26, 2019
renu

(RAJBIR SEHRAWAT)
JUDGE

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