

S.No.136

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

CRM-M-35358 of 2019 (O&M)

Date of Decision:28.08.2019

Sukhjinder Singh

.....Petitioner

Vs.

UT, Chandigarh and anr.

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Ashish Aggarwal, Advocate
for the petitioner.

Rajbir Sehrawat, J.(Oral)

This is a petition seeking quashing of the impugned order dated 16.08.2018 passed by JMIC, Chandigarh whereby the petitioner has been declared as proclaimed person without adopting the proper procedure of law, in an illegal, arbitrary and cursory manner in a complaint case bearing COMP/8622/2017, dated 01.08.2017 titled as “Kotak Mahindra Bank Vs. Sukhjinder Singh” filed under Section 138 of NI Act.

It is contended by counsel for the petitioner that the order declaring the petitioner as a proclaimed person has been passed without complying with the provisions contained in Section 82 Cr.P.C. It is further submitted that even the Court orders do not categorically show that the petitioner was ever served. Every time, the process server had reported to the Court that the address of the petitioner was not complete and, therefore, the process could not be served upon any person of the name of the petitioner. Ultimately, the service was sought to be effected through publication. However, the said publication also does not have any wide circulation in the area. Hence, the petitioner could not come to know of the proceedings even after publication. It is further submitted that 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.

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 impugned order is set aside subject to the petitioner appearing before the trial Court on or before 05.09.2019. It is further directed that in case the petitioner so appears before the trial Court on or before 05.09.2019 then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

August 28, 2019
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(RAJBIR SEHRAWAT)
JUDGE

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