

Sr. No.157

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

CRM-M-36718-2019

Date of decision:02.09.2019

Gurpal Singh

.....Petitioner

versus

State of Punjab

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Gurdial Singh Jaswal, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for seeking quashing of the Order dated 05.12.2018(Annexure P-7) whereby the petitioner has been wrongly declared as Proclaimed Person in FIR No.83, dated 24.06.2018 for the offences punishable under Sections 472 IPC and 25-54-59 of Arms Act, registered at Police Station Division No.2, Pathankot.

Learned counsel for the petitioner contends that although the petitioner could not appear before the Trial Court, consequently, he had been declared as proclaimed person, however, the non-appearance of the petitioner before the Trial Court was not intentional. In fact, the then Senior Superintendent of Police, Pathankot (Vivek Soni) and SI Balwinder Kumar involved the petitioner in a false case. Even the co-accused of the petitioner was illegally picked up by the police. Therefore, a petition for a writ of Habeas Corpus was filed before this Court. When the warrant officer had visited police station, only then the FIR was created. Learned counsel for the petitioner further submits that the petitioner apprehended that he could have been involved in another case, so he had even withdrawn his

application for anticipatory bail; so as to avoid his appearance before the police. Still further it is submitted that both the above-said police officials have now been transferred. So the petitioner has no hesitation in appearing before the Court. The petitioner has no intention to flee from the course of justice. He intends to appear before the Trial Court now. The only prayer is that the petitioner be protected from the arrest.

Notice of motion.

On the asking of the Court, Shri K.S.Aulakh, DAG, Punjab accepts notice on behalf of the State and submits that he has no 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 16.09.2019. It is further directed that in case, the petitioner so appears before the trial Court then the petitioner shall be released on bail on his furnishing bail bond/surety to the satisfaction of the Trial Court

2nd September, 2019

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*