

Sr. No.128

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

**CRM-M-39362-2019(O&M)
Date of decision:29.10.2019**

Sanjay

.....Petitioner

versus

State of Haryana

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Manish Soni, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for quashing of FIR No.104 dated 30.03.2013 for the offences punishable under Section 420 IPC [Section 467/468/471/120-B IPC added later on] registered at Police Station Matlauda, District Panipat, as well as the Order dated 05.02.2015, whereby the petitioner was declared as proclaimed person.

At the out-set, learned counsel for the petitioner submits that in the present petition, although petitioner has challenged the FIR as well, however, the present petition be restricted only qua the challenge to the Order declaring the petitioner as proclaimed person.

Accordingly, the present petition is entertained only qua the Order dated 05.02.2015(Annexure P-8), vide which the petitioner was declared as proclaimed person.

It is contended by learned counsel for the petitioner that the petitioner has been wrongly involved in the case. The petitioner is not connected with any crime what-so-ever. However, the name of the petitioner was involved in the present case only on the basis of disclosure

statement of co-accused Gurmail Singh. Even the said Gurmail Singh stands acquitted by the Trial Court because of there being no evidence against him. However, the petitioner could not face the trial because he was not aware of the proceedings. Later on the police visited the house of the petitioner for arresting him; only then he came to know that he was involved in the case, and that the petitioner has also been declared as proclaimed person vide Order dated 05.02.2015(Annexure P-8).

However, the petitioner was never served with any notice, summon or warrant regarding this case, either from the Court or from the police. Hence, the petitioner has been wrongly declared as proclaimed person without complying with the procedure prescribed under Section 82 of Cr.P.C. Even the address of the petitioner, at which notice is stated to have been affixed; is wrongly mentioned. Petitioner is a resident of Delhi, whereas; his address has been shown to be of village Sukhrali, District Gurugram. The petitioner had no intention to flee from the course of justice. Since now the petitioner has come to know that he is declared as proclaimed person, therefore, petitioner intends to appear before the Trial Court to face further proceedings in accordance with law. However, the only prayer is that the petitioner be protected against his arrest.

Notice of motion.

On the asking of the Court, Shri Vikas Malik, D.AG, Haryana 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 and the impugned Order dated 05.02.2015(Anneuxre P-8) is set aside, subject to the petitioner appearing before the trial Court on or before 15.11.2019 and further subject to the petitioner despositing Rs.20,000/- as costs with the District Legal Services Authority, Gurugram. It is further directed that in case the petitioner so appears before the trial Court; after depositing the costs of Rs.20,000/- with the District Legal Services Authority, Gurugram, then the petitioner shall be released on bail on his furnishing bail bond/surety to the satisfaction of the Trial Court and on producing the receipt qua deposit of the costs; before that Court.

29th October, 2019

Shivani Kaushik

[RAJBIR SEHRAWAT]

JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*