

Sr. No.136

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

CRM-M-39870-2019

Date of decision:19.09.2019

Jaspal Singh

..... Petitioner

versus

State Bank of Patiala

..... Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Suneet Pal Singh Aulakh, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for quashing of the Order dated 06.10.2017(Annexure P-1) passed by the Additional District & Sessions Judge-3, Patiala whereby the petitioner was declared as proclaimed offender.

It is contended by learned counsel for the petitioner that the petitioner was convicted and sentenced by the Trial Court for the offence under Section 138 of the Negotiable Instruments Act. Thereafter, the petitioner had filed appeal before the lower Appellate Court and he was released on bail by suspending his sentence. The proceedings of the appeal were going on. The petitioner was under impression that his counsel was regularly appearing before the lower Appellate Court to argue his case. Therefore, under a wrong impression, though mistaken, the petitioner did not appear in person before the lower Appellate Court to prosecute his appeal. However, as it turned out later on, even the counsel for the petitioner had stopped appearing before the lower Appellate Court. Hence, the bail granted to the petitioner was cancelled. It has also now come to the

notice of the petitioner that subsequent thereto, the petitioner has been declared as a proclaimed offender as well, vide impugned Order dated 06.10.2017(Annexure P-1). However, the petitioner was never served with any notice, summon or warrant issued by any Court before passing the impugned order against the petitioner. Hence, the Order suffers from non-compliance of the provisions of Section 82 Cr.P.C. But, since the petitioner has now come to know that he is required to appear before the lower Appellate Court, therefore, he intends to appear before the lower Appellate Court to face further proceedings, in accordance with law. The petitioner does not have any intention to flee from the course of justice. The only prayer is that the petitioner be protected from the arrest.

At this stage, this Court does not find it necessary to issue the notice to the respondent, in view of the nature of the Order intended to be passed hereinbelow.

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 lower Appellate Court on or before 27.09.2019. It is further directed that in case, the petitioner so appears before the lower Appellate Court then the petitioner shall be released on bail on his furnishing bail bond/surety to the satisfaction of the lower Appellate Court.

19th September, 2019

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*