

Sr. No.132

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

CRM-M-41270-2019(O&M)
Date of decision:25.09.2019

Parkash Chand

..... Petitioner

versus

State of Punjab

..... Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Naresh Jain, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for setting aside the Order dated 09.09.2015 passed by Judicial Magistrate Ist Class, Kharar(Annexure P-7) in case pertaining to FIR No.77 dated 11.09.2013 for the offences punishable under Sections 406/420/120-B IPC registered at Police Station Mullanpur Garibdass, District SAS Nagar, whereby petitioner has been declared proclaimed person.

Learned counsel for the petitioner contends that the petitioner was wrongly involved in this case. The petitioner was not aware of the proceedings being carried out against him. The petitioner was never served with any notice, summon or warrant issued by any Court. However, the petitioner was declared as proclaimed person vide Order dated 09.09.2015. On coming to know of the possible involvement of the petitioner in the alleged crime, the petitioner had even sought anticipatory bail. The petitioner was granted interim anticipatory bail vide Order dated 18.01.2016 and the same was confirmed vide Order dated 09.02.2016, as well. Accordingly, the petitioner had appeared before the Investigating Officer and joined the proceedings. However, now again the Investigating Officer

informed the petitioner that he deserves to be arrested; because earlier Order declaring the petitioner as proclaimed person still sustains. Hence, the petitioner apprehends his arrest. It is further submitted by learned counsel for the petitioner that the petitioner has no intention to flee from the 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 from the arrest.

Notice of motion.

On the asking of the Court, Ms. Amarjit Kaur Khurana, DAG, Punjab accepts notice on behalf of the State of Punjab 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 the present case, the petitioner has even actually, joined the proceedings after he was declared proclaimed person.

In view of the above, the present petition is allowed. Order dated 09.09.2015(Annexure P-7 is set aside subject to the petitioner appearing before the trial Court on or before 15.10.2019. 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.

25th September, 2019

Shivani Kaushik

Whether speaking/reasoned

Whether Reportable

Yes/No

Yes/No

[RAJBIR SEHRAWAT]

JUDGE