

S.No.108

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

CRM-M-42146 of 2019 (O&M)

Date of Decision:01.10.2019

Sukhcharan Singh @ Channa

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Amit Arora, Advocate
for the petitioner.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 438 Cr.P.C for grant of anticipatory bail in case No.409 of 2016 titled as “State Vs. Sukhcharan Singh” pending in the Court of Judge Special Court, Tarn Taran, arising out of FIR No.50 dated 10.06.2015 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act at Police Station Chohla Sahib, District Tarn Taran.

It is submitted by counsel for the petitioner that in this very case, the petitioner was already granted bail pending trial by the trial Court. Thereafter, even the charge was framed against the petitioner on 18.04.2017. Accordingly, the petitioner was appearing before the trial Court for facing further proceedings. However, on 03.08.2017, the petitioner could not appear before the trial Court. As a result, the bail granted to the petitioner was cancelled. Thereafter, vide order dated 14.08.2019, the petitioner has also been declared as a Proclaimed Offender. Still further, it is submitted that the absence of the petitioner on 03.08.2017 was not intentional. Rather the same had happened because the petitioner had wrongly noted the date to be 28.08.2017 instead of 03.08.2017. It is only when on 28.08.2017,

the petitioner went to the Court complex, that he was told that as and when the petitioner would be required to appear, he would receive summons from the Court. However, the petitioner never received any summons or warrants from any Court. To his surprise, the police came to house of the petitioner in his absence to arrest him on the ground that the petitioner had been declared as a Proclaimed Offender on 14.08.2019. It is only then the petitioner came to know that the petitioner had been declared as a Proclaimed Offender. However, even before passing the order declaring the petitioner as Proclaimed Offender, the necessary procedure as prescribed under Section 82 Cr.P.C has not been followed. The petitioner has not been served with any notice, summons or warrants before passing the said order. However, since the petitioner has now come to know of the order, therefore, the petitioner intends to appear before the trial Court to face further proceedings in accordance with law. The petitioner does not have any intention to flee from course of justice. The only prayer is that the petitioner be protected against his arrest.

Notice of motion.

Mr. K.S. Aulakh, DAG, Punjab, accepts notice on behalf of the State. Learned State Counsel does not have any objection if the petitioner appears before the trial Court to face further proceedings.

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 23.10.2019. It is further directed that in case the petitioner so appears before the trial Court on or before 23.10.2019 then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

October 01, 2019
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(RAJBIR SEHRAWAT)
JUDGE

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