

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

CRM-M No.43848 of 2019 (O&M)
DATE OF DECISION : 25th NOVEMBER, 2019

Maninder Singh @ Manni

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Bhrgu Dutt Sharma, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

Present petition has been filed seeking setting aside of the order dated 08.11.2016 (Annexure P-7), passed by the Additional Chief Judicial Magistrate, Jalandhar, whereby the petitioner was declared as proclaimed offender in case FIR No.67 dated 08.05.2016 registered under Sections 307, 326, 324, 323, 341, 506, 148 & 149 IPC at Police Station Sadar, Jalandhar.

It is contended by counsel for the petitioner that the petitioner has wrongly been declared as proclaimed offender in the case. The petitioner was neither served with any notice by the police during investigation, nor any notice, summon or warrant issued by the court was served upon him, before passing the impugned order dated 08.11.2016 against the petitioner. The petitioner is a resident of the same village, to which the other co-accused, who were facing the trial, belong. Despite that the petitioner was not informed by the police regarding the case. Now the petitioner has come to know about the pendency of the proceedings against him. There was no reason or the occasion for the petitioner not to appear before the court. The serving constable has manipulated the service report to misrepresent before the court that the petitioner was avoiding arrest. It is

further submitted that the record of the trial court also shows that even the mandatory 30 days' time was not granted, before declaring the petitioner as proclaimed offender. Earlier the petitioner was not even aware about the proceedings pending against him. However, now, when the police visited his house in his absence, to arrest him, the petitioner came to know that the petitioner has been declared as proclaimed offender. Since the petitioner has now come to know, that he is required to appear before the court, therefore, the petitioner intends to appear before the trial court or before the investigating officer, to face further proceedings, in accordance with law. However, the only prayer is that the petitioner be protected against his arrest.

Notice of motion.

Mr. Harbir Sandhu, AAG, Punjab, accepts notice on behalf of the State. He submits that the State has no objection to the protection being given to the petitioner, subject to the condition that the petitioner will appear before the trial court.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remain 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, it would not be unjustified to grant protection to the petitioner; with a further direction to him to appear before the trial court or investigating agency, however, by putting him to some appropriate financial burden.

Accordingly, the present petition is allowed and the impugned order dated 08.11.2016 (Annexure P-7) is set aside, subject to the petitioner appearing before the investigating officer of the case on or

before 12.12.2019, and further subject to deposit of ₹25,000/- as cost with the Poor Patient Welfare Fund, PGI, Chandigarh. It is further ordered that in case the petitioner so appears before the investigating officer on or before 12.12.2019 then he shall be released on bail, on his furnishing bail bonds/sureties to the satisfaction of the arresting officer/investigating officer.

However, it is clarified that the petitioner would be released on bail only, if the petitioner produces before the investigating officer, the receipt of having deposited the cost, as mentioned above.

25th NOVEMBER, 2019
‘raj’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>