

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

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**CRM-M No. 48985 of 2019
Date of decision : 19.11.2019**

Vinod Kumar

.....Petitioner

Vs.

State of Punjab

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Ms. Gurjinder, Advocate, for
Mr. M.K. Dhot, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of order dated 8.3.2019, passed by Chief Judicial Magistrate, Kapurthala, during the trial of case FIR No. 200 dated 31.7.2015, registered under Sections 420, 465, 468, 384 and 34 IPC at Police Station Kapurthala City.

It is contended by learned counsel for the petitioner that the petitioner has been wrongly declared as a proclaimed offender in this case. The non appearance before the Court was not intentional on the part of the petitioner. In fact, unfortunately, the petitioner was also involved in another case and in that case, he remained in custody from 18.10.2018 till 20.9.2019. In the meantime, the trial Court in the present case had issued warrant of arrest against the petitioner on 30.10.2018. Thereafter, the petitioner has been declared proclaimed offender vide order dated 8.3.2019. However, on both these dates and during the intervening period, the petitioner had been in continuous custody. Not only this, the petitioner had even requested the jail authorities to produce him in the present case, by moving the necessary

application on 29.10.2018. However, the jail authorities had not heeded to his request. As a result, under compulsion, the petitioner could not appear before the Court, since he was in the custody in another case. Still further, it is submitted that the petitioner has no intention to flee from the Courts of justice. Now the petitioner would appear before the trial Court to face further proceedings, in accordance with law. But the only prayer is that the petitioner be protected against his arrest.

Notice of motion.

Ms. Amarjit Kaur Khurana, 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 5.12.2019. Order dated 8.3.2019 is quashed. It is further directed that in case the petitioner so appears before the trial Court on or before 5.12.2019 then he shall be released on bail on his furnishing bail bonds/sureties to satisfaction of the trial Court/Duty Magistrate.

(RAJBIR SEHRAWAT)
JUDGE

19.11.2019

Ashwani