

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

CRM-M No.30362 of 2018 (O&M)
DATE OF DECISION : 4th JULY, 2019

Harbans Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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Present : Mr. Ashok Giri, Advocate for
 Mr. S. S. Rana, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing of orders dated 11.02.2017 and 06.04.2017 (Annexures P-5 and P-6), whereby the petitioner was declared proclaimed offender in case FIR No.164 dated 29.09.2016 registered under Sections 302, 238, 148, 149 IPC at Police Station Mehatpur, District Jalandhar.

Learned counsel for the petitioner submits that the petitioner has been wrongly declared proclaimed offender in this case. The perusal of the summons/warrants issued in the name of the petitioner shows that attempt was made to serve the same upon the petitioner at Village Sidwan Bet Tehsil Jagron, District Ludhiana. However, the petitioner was not resident of the above said village. Rather the petitioner is residing in village Hambran, Police Station Ladowal, Tehsil and District Ludhiana along with his family for the last more than twenty years. No notice/summons or warrants were, however, sent or served on this

address of the petitioner. Therefore, the procedure prescribed under Section 82 Cr.P.C. has not been properly complied with before declaring the petitioner as proclaimed offender. Learned counsel for the petitioner submits that the petitioner has no intention to flee from the courts of justice. Since the petitioner has now come to know about the fact, therefore, he intends to appear before the trial court. The only prayer is that the petitioner be protected against his arrest.

Notice of motion.

Mr. Kirat Singh Sidhu, Deputy Advocate General, 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 he will appear before the trial court.

It is not disputed by learned State counsel, who is being instructed by ASI Ashwani Kumar, that there is no document on the police file to show that the petitioner was a resident of the address at which the summons/warrants were taken by the police. The only submission in this regard is that some enquiry was made regarding the residence of the petitioner and, therefore, warrants/summons were taken at this address.

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 16.07.2019. It is further directed that in case the petitioner so appears before the trial Court on or before 16.07.2019 then he shall be released on bail on his furnishing bail bonds/sureties to the satisfaction of the trial Court/Duty Magistrate.

4th JULY, 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>