

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

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**CRM-M No. 54986 of 2019
Date of decision : 20.12.2019**

Sachin Nashine

.....Petitioner

Vs.

The State of Haryana and another

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Dishant Rishi, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

The present petition has been filed by the petitioner under Section 482 Cr.P.C seeking quashing of the impugned order dated 7.11.2019 passed by the learned Judicial Magistrate Ist Class, Panchkula, vide which the petitioner was declared proclaimed person in complaint bearing No. NACT/232/2016 dated 31.3.2016 titled as M/s Exmed Health Care v. Sachine Nishine, under Section 138 of the Negotiable Instruments Act, 1881

It is contended by learned counsel for the petitioner that the petitioner was not aware of the proceedings pending against him. The entire process was sought to be served at the earlier address of the firm of the petitioner. However, the petitioner had already shifted his business from that place. Therefore, the process could never be effected upon the petitioner. The petitioner was not even aware of the proceedings against him. But now, since the petitioner has come to know about the order passed against him, therefore, he is intending to appear before the trial Court to face further proceedings, in accordance with law. The petitioner does not have any intention to flee from

the Courts of justice. But the only prayer is that the he be protected against his arrest.

In view of the order being passed at this stage, it is not considered appropriate to issue notice to respondents.

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 her sincere intention and desire to appear before the Court, then it would not be unjustified to protect her 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, however, by putting him to some appropriate financial burden.

In view of the above, the present petition is allowed subject to the petitioner appearing before the trial Court on or before 15.1.2020 and further subject to payment of Rs.20,000/-as costs, which is ordered to be deposited with the Punjab & Haryana High Court Bar Association, Chandigarh. It is further directed that in case, the petitioner so appears before the trial Court on or before 15.1.2020, then he shall be released on bail on his furnishing bail bonds/sureties to satisfaction of the trial Court/Duty Magistrate.

However, it is clarified that the petitioner shall be released on bail only if he produce before the Court below, the receipt of having deposited the costs, as mentioned above.

(RAJBIR SEHRAWAT)
JUDGE

20.12.2019

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No