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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-22612 of 2020
Date of Decision: 13.08.2020

Dilshad Akhtar @ Dilshad Mohammad @ Lamber

..... Petitioner

Versus

State of Punjab and Another

..... Respondents

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In virtual Court
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CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr.B.S.Bhalla, Advocate,
for the Petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

The present petition has been filed under Section 482 of the Criminal Procedure Code, 1973 for quashing of order dated 20.08.2019 (Annexure P-2) whereby he has been declared as proclaimed offender in case FIR No.96 dated 12.06.2019, under Sections 376, 366A, 506, 120-B and 323 of the India Penal Code, 1860 and under Section 4 of the Protection of Children from Sexual Offences Act, 2012 (Annexure P-1) at Police Station Dharamkot, District Moga.

It is contended by counsel for the petitioner that the case against the petitioner is totally concocted. The petitioner was not even aware of the existence of the present case against him. The petitioner was employed some where else at the relevant time. Therefore, he had no reason or occasion to be even present at the scene of occurrence. However, now the petitioner has come to know that he has been declared as proclaimed offender and he intends

to appear before the trial Court, to face further proceedings in accordance with law. The petitioner had no intention to flee from course of justice. The only prayer is that petitioner be protected against his arrest. Further, it is submitted by the counsel that the police have got declared the petitioner as proclaimed offender without following the procedure prescribed under Section 82 of the Cr.P.C. Still further, it is submitted by the counsel that the petitioner could not have been even declared as proclaimed offender by the Court; at the stage of investigation. In any case, petitioner intends to appear before the Court but he be protected against his arrest.

Notice of motion.

Mr.Ramandeep Sandhu, Sr. DAG, Punjab, accepts notice on behalf of respondent/State.

Mr.Shivender Pal, Advocate, for respondent No.2, accepts notice on behalf of complainant.

The counsel for the complainant has pointed out that the complainant has already married the alleged main accused. Therefore, the complainant has no grievance against the present petitioner also. Though, the State counsel has submitted that there are direct allegations against the petitioner, however, the State has no objection if the petitioner appears before the trial Court and faces the further proceedings; in accordance with law.

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, the present petition is allowed subject to the petitioner appearing before the trial Court on or before 27.08.2020. It is further directed that in case the petitioner so appears before the trial Court on or before 27.08.2020 then he shall be released on bail on his furnishing bail bonds/sureties to the satisfaction of the Trial Court/Chief Judicial Magistrate/Duty Magistrate.

13.08.2020
anil

(RAJBIR SEHRAWAT)
JUDGE

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