

CRM-M-22990-2019 (O&M)

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

**CRM-M-22990-2019 (O&M).
Decided on: January 6, 2020.**

Gurvinder Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Ashok Kumar Khunger, Advocate,
for the petitioner.**

Mr.M.S.Nagra, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed challenging the order dated 8.12.2017 (Annexure P3) passed by the learned Additional Chief Judicial Magistrate, Sri Muktsar Sahib, whereby the petitioner has been declared a proclaimed person.

Learned counsel for the petitioner has vehemently argued that right from the beginning even at the stage of FIR, the petitioner was not aware of the proceedings of the investigation or before the Court as the

CRM-M-22990-2019 (O&M)

name of the petitioner never figured in the FIR and non-bailable warrants have been issued against the petitioner. Learned counsel for the petitioner has pointed out to para 9 of the petition whereby it has been specifically pleaded that no intimation regarding issuance of non-bailable warrants against the petitioner was ever given to the Numberdar/Chowkidar/Sarpanch of the village. He has further stated that the petition has been supported by duly sworn affidavit and that the petitioner is ready and willing to surrender before the learned trial Court and would abide by all the conditions which may be imposed upon him by the learned trial Court. Learned counsel for the petitioner submits that the petitioner undertakes to appear before the trial Court on or before 22.1.2020.

Per contra, the learned State counsel has argued that the petitioner has already been declared proclaimed person and therefore, no concession should be given to him as he was at liberty to surrender before the Court, the moment he came to know with regard to the proceedings.

Heard the learned counsel for the parties and perused the record.

It has been averred in para 9 of the petition that there was no intimation regarding the notice/non-bailable warrants issued against the petitioner nor it was given to the Numberdar/Chowkidar/Sarpanch of the village. In reply filed by the State, although the contents of para 9 of the petition have been stated to be incorrect but they have not been specifically denied. In the present case the trial has already commenced and co-accused has also been released on bail in terms of order passed by this Court. It is

CRM-M-22990-2019 (O&M)

always in the interest of justice that the accused should join the stream of trial and in case due to some reasons, the accused has been declared a proclaimed person, then the Court would always look into the substance and material available on the record to show whether he intended to evade the proceedings or not. In the case where accused deliberately and willfully evades the process and does not intentionally submit to the jurisdiction of the Court then of course, all the consequences should always follow. However, in the present case it does not appear that the petitioner has been deliberately and willfully evading the arrest and has not joined the proceedings. Consequently, it would be in the interest of justice if the petitioner submits before the trial Court so that he may participate in the proceedings and defend his case. The petitioner has undertaken to appear before trial Court on or before 22.1.2020.

In view of above, the present petition is allowed. order dated 8.12.2017 (Annexure P3) passed by the learned Additional Chief Judicial Magistrate, Sri Muktsar Sahib, declaring the petitioner a proclaimed person is set aside. The petitioner is directed to appear before the trial Court on or before 22.1.2020.

January 6, 2020.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No