

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 23648 of 2020 (O&M)

Date of decision : 16.9.2020

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Gurwinder Kaur

.....Petitioner

vs.

State of Haryana

.....Respondent

**Coram: Hon'ble Mr. Justice H. S. Madaan**

Present: Mr. Rohan Garg, Advocate  
for the petitioner.

Mr. Anmol Malik, Deputy Advocate General,  
Haryana.

Mr. Pawandeep Singh, Advocate for the complainant.

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**H. S. Madaan, J. (Oral)**

Case taken up through video conferencing.

Gurwinder Kaur, an accused in FIR No. 157 dated 11.6.2017, for offences under Sections 307, 323 and 34 IPC and Sections 25 and 27 of Arms Act, 1959, registered at Police Station City Kalanwali, District Sirsa, had approached this Court for grant of pre-arrest bail by way of filing CRM-M-25821 of 2017. Her such prayer was accepted by this Court vide order dated 16.8.2017 and the interim bail granted to her on 20.7.2017 was made absolute subject to

her fulfilling the conditions under Section 438(2) Cr.P.C. That order was passed in the presence of State counsel for Haryana. In the trial Court of JMIC, Dabwali, it is shown to have issued notice to Gurwinder Kaur and the same was returned un-served and non-bailable warrants of arrest were issued, which were also received un-executed. Thereafter proclamation against such accused was issued and she was declared a proclaimed offender. The petitioner has approached this Court by way of filing a petition under Section 482 Cr.P.C., challenging the order declaring her as a proclaimed offender.

Notice of the petition had been issued to the State. Learned counsel for the complainant has also put in appearance.

I have heard learned counsel for the parties, besides going through the record.

Admittedly, the order granting pre-arrest bail to the petitioner is still in operation and has not been set aside. The order was passed in the presence of learned State counsel and as per procedure a copy of the order would have been sent to the Illaqa Magistrate concerned through District and Sessions Judge, of that Sessions Division. Even if it is taken that the petitioner was not found available at the address furnished by her, then proper course for the State was to approach this court by way of filing an application under Section 439 Cr.P.C., that since the petitioner has violated the terms and conditions upon which she was granted bail, she be ordered to be arrested and committed to custody. But that procedure was not followed. Learned Magistrate proceeded to declare her as a

proclaimed offender, which was not proper and appropriate. Therefore, the order declaring her as proclaimed offender cannot be sustained and is liable to be set aside.

However, the petitioner is directed to appear in the trial Court within 7 days from today and furnish the requisite bonds as directed by the trial Court and then she be released on bail. In case the petitioner fails to comply with the direction, then the State/complainant may approach this Court informing regarding such lapse, so that appropriate action in the matter can be taken.

Disposed of.

**16.9.2020**  
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**( H.S. Madaan )**  
**Judge**

Whether speaking / reasoned                      Yes / No

Whether reportable                                      Yes / No