

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

**CRM-M-37167-2019 (O&M)  
Date of Decision: 19.02.2020.**

Abhishek Jain

....Petitioner.

Versus

State of Punjab

....Respondent.

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**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

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**Present:** Mr. Vikram Bali, Advocate for the petitioner.

Mr. V.G. Jauhar, Sr. Deputy Advocate General, Punjab.

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**Suvir Sehgal, J.**

Present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 31.07.2019 (Annexure P4) passed in case FIR No.149 dated 18.10.2014, under Sections 420 and 120-B IPC, registered at Police Station B-Division, Amritsar City, District Amritsar, whereby the petitioner was declared as a proclaimed person.

Facts, in brief, are that FIR was lodged against the petitioner by one Gurinder Singh Grover on the allegation that in the year 2014, the petitioner along with one Sagar Soni approached the complainant saying that a Reliance company was contemplating entering into banking business and was going to provide loans at low rate of interest. It was represented

that preference in sanctioning loan will be given to Government servants. The complainant alleged that he sent documents asked for to the accused through courier at their address of Delhi along with a cancelled cheque from his bank account. He also alleges that he sent a cheque of Rs.1,50,000/- representing security amount. After receiving documents, a file was opened by the accused and he received a call from a representative of the accused, whereby the representative asked him to get the cheque cleared and told him that without the cheque being encashed, his file would not be opened. He was asked to deposit the amount through NEFT/RTGS facilitating the transfer of loan amount to his account. The complainant alleges that he transferred the amount from his bank account. Though he was assured that the loan amount will be transferred but he did not receive any amount in his account and he made a complaint to the Delhi police but when he did not get any response, he lodged the present complaint.

On these allegations, FIR was registered against the accused. Investigation was conducted and police raided the addresses given, but the accused could not be arrested. Warrants were issued by the Court and vide order dated 31.07.2019 (Annexure P4), the petitioner along with two other accused were declared as proclaimed persons. The order dated 31.07.2019 has been challenged by the petitioner in the instant petition.

Learned counsel for the petitioner submits that the petitioner is a Chartered Accountant by profession and belongs to a family of Chartered Accountants. He further submits that he never received any process from the Amritsar Police nor did he receive any summons or warrants for appearance before the Court at Amritsar. When he came to know about the pendency of the proceedings and his being declared as a proclaimed person, he filed an

application under Section 438 Cr.P.C. for grant of anticipatory bail before the District Court, Amritsar, which was turned down on 22.08.2019 (Annexure P3). Thereafter, he filed petition (CRM-M-37099-2019) before this Court seeking anticipatory bail and vide order dated 04.09.2019, this Court granted interim bail to the petitioner and further ordered that the petitioner shall produce a demand draft of Rs.1,50,000/-, favouring the complainant, before the Investigating Officer, when he goes to join investigation. It was further ordered that in case, the petitioner produces such demand draft, the Investigating Officer shall hand over the same to the complainant for encashment.

On the same day, in the present petition, this Court issued notice of motion and directed that the operation of impugned order dated 31.07.2019 (Annexure P4) shall remain stayed, subject to the petitioner appearing before the Investigating Officer pursuant to the order passed in the connected petition. It has further been submitted that in pursuance of the order dated 04.09.2019, the petitioner had handed over a demand draft of Rs.1,50,000/- to the Investigating Officer, which has since been encashed by the complainant. This fact has been noticed by this Court in order passed on even date in petition (CRM-M-37099-2019). Simultaneously, this Court allowed the said petition and order dated 04.09.2019 granting interim bail to the petitioner, was made absolute.

It has been argued by the counsel for the petitioner that the petitioner is not connected with the alleged crime and he was not aware of the pendency of the proceedings against him as he had never been served with any notice, summons or warrants before passing of the impugned

No return has been filed by the State.

Learned State counsel has argued that the proper procedure had been followed. When the petitioner failed to appear in response to the summons, non bailable warrants were issued in his name whereon it was reported that the petitioner has absconded, thereafter, proceedings were initiated under Section 82 Cr.P.C. and after following due process, the petitioner was declared as a proclaimed person vide impugned order dated 31.07.2019 (Anexure P4) and FIR under Section 174-A IPC was lodged on the basis of the impugned order.

Learned counsel for the petitioner has produced before this Court interlocutory orders dated 04.09.2019, 05.10.2019, 30.10.2019, 20.11.2019 and 12.12.2019 and has submitted that the petitioner has joined proceedings before the trial Court and is regularly appearing in the case. He further submits that once the petitioner has appeared before the trial Court and has joined proceedings, the purpose stands served and the order declaring him as a proclaimed person deserves to be quashed.

No doubt, Section 82 Cr.P.C. had been introduced for a specific purpose as has been noticed by the Hon'ble Supreme Court in **Vimla Ben Ajit Bhai Vs. Vatslaben Ashom Bhai Patel and others, (2008) 4 SCC 649,** wherein it has been held as under:-

*“32. The provisions contained in Section 82 of the Code of Criminal Procedure were put on the statute book for certain purpose. It was enacted to secure the presence of the accused. Once the said purpose is achieved, the attachment shall be withdrawn. Even the property which was attached, should be restored. The provisions of the Code of Criminal Procedure do not warrant sale of the property despite the fact that the absconding accused had surrendered and obtained bail. Once*

*he surrenders before the Court and the Standing Warrants cancelled, he is no longer an absconder.”*

Reference can be made to the judgment of Hon'ble Delhi High Court in **Deepak Kumar alias Deepak Saha vs. State, 2017(5) R.C.R.(Crl.) 730**, wherein the High Court of Delhi held as under:-

*“18. In the instant petition, petitioner while challenging the impugned orders has already joined trial and is released on anticipatory bail vide order dated 25.06.2016. The purpose of the proceedings under Sections 82 and 83 Cr.P.C. is to initiate the proceedings qua accused person for joining the investigation and in the instant case the purpose of Sections 82 and 83 Cr.P.C proceedings have already met.*

*19. In these circumstance, I quash the impugned orders dated 07.12.2010, 04.02.2011 and 10.10.2013 passed by the learned CMM, Patiala House Courts, New Delhi and reliance is placed on Minipal Singh vs. State, I (2007) DLT (CRL.) 382.”*

This Court in **Smt. Deeksha Puri Vs. State of Haryana, 2013(1) R.C.R.(Crl.) 159**, held as under:-

*“41. It is also clarified that the moment a proclaimed offender is arrested or he appears at the place and time required by the Court or surrenders before the Court or authority issuing warrants or proclamation, as the case may be, the order of declaration of proclaimed offender would cease to be operative.”*

It is, therefore, clear that that objective was to ensure the presence of the accused. As is apparent from the interlocutory orders produced before this Court by the petitioner, the petitioner has already appeared and joined proceedings. He is regularly appearing before the trial Court since 04.09.2019. As such, purpose, for which the proceedings under Section 82 C.P.C. had been initiated, stands achieved and the petitioner can no longer be called as an absconder.

Consequently, the present petition is allowed and order dated 31.07.2019 (Annexure P4) insofar as the petitioner has been declared as a proclaimed person is quashed. No order as to costs.

**(SUVIR SEHGAL)**  
**JUDGE**

**19.02.2020**

*komal*

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No