

CRM-M-42941-2021

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

CRM-M-42941-2021

Date of decision : 09.11.2021

Yusuf Ali

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sudhir Rana, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.545 dated 23.09.2014, registered at Police Station Dharuhera, District Rewari, under Sections 279, 336, 295 and 120-B IPC and Section 3(2) (E) of the Prevention of Damages to Public Property Act, 1984.

Learned counsel for the petitioner contends that the petitioner being driver by profession, could not appear before the trial Court on 22.07.2015 and ultimately, was declared a proclaimed offender, vide impugned order dated 22.02.2017. He further contends that while declaring the petitioner as proclaimed offender, the trial Court had not complied with the provisions of Section 82 Cr.P.C. for the reason that he had shifted to Rajiv Nagar, Karawal Nagar, North-East, Delhi, but the proclamation proceedings were carried out at his earlier address at Hapur (U.P). Due to change of address, the petitioner had not received any

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summons/notice issued by the trial Court and, therefore, he could not appear before it. The absence of the petitioner before the trial Court was not intentional and rather due to the change of the address. Moreover, co-accused, namely, Shamshudeen, who was owner of the vehicle, stood acquitted on 20.08.2018. The petitioner is now ready to appear before the trial court.

Notice of motion.

On the asking of this Court, Mr. Ashok Singh Chaudhary, Addl. A. G. Haryana, accepts notice on behalf of the respondent-State and submits that the petitioner absented himself from the court proceedings w.e.f. 22.07.2015 to 22.02.2017 and after adopting the due procedure under Section 82 Cr.P.C., the petitioner had rightly been declared proclaimed offender. Keeping in view the fact that the petitioner absented himself from the court proceedings for a long period, he does not deserve any leniency.

I have heard the learned counsel for the parties.

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 judgments 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. Moreover, the co-accused faced the trial and nothing was found against him and ultimately, he stood acquitted of the charges.

The petitioner is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no

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useful purpose would be served by sending him to custody.

Keeping in view the above, but without going into the merits of the case, the present petition is allowed and the petitioner is ordered to be released on anticipatory bail, subject to him furnishing the fresh bail/surety bonds within 15 days, to the satisfaction of the trial Court/Duty Magistrate.

In case, the petitioner fails to furnish the requisite bonds within the stipulated period, the instant petition shall stand dismissed automatically.

09.11.2021

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No