

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

287

CRM-M-7224-2021 (O&M)

Date of Decision: 22.11.2022

SUKHJINDER SINGH

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Saurav Bhatia, Advocate and
Mr. SS Rang, Advocate for the petitioner.

Mr. Vijesh Sharma, Additional AG Haryana.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for quashing of the order dated 06.12.2019 passed by the learned Additional Sessions Judge, Panchkula, vide which the petitioner has been declared as a proclaimed person in FIR No.88 dated 25.06.2016, registered under Sections 148, 279, 323, 379-A, 427, 506 and 149 IPC and Section 109 IPC (added later on), at Police Station Sector-20, Panchkula, District Panchkula, along with all the consequential proceedings arising therefrom.

Learned counsel for the petitioner submits that the petitioner was regularly appearing before the trial Court but due to ill-health of his father (who was having various serious ailments and who ultimately passed away), he could not appear on 04.04.2019 and that, though, the petitioner had informed his counsel to move an application seeking his exemption from personal appearance before the Court, yet due to misunderstanding, the same could not be filed and accordingly, his surety/bail bonds were cancelled and forfeited to the State, and non-bailable warrants against the accused-petitioner and notice to his surety

under Section 446 Cr.P.C. were issued for 30.05.2019. It is, thus, submitted that non-appearance of the petitioner was neither intentional nor wilful, but for the reasons explained above.

Learned counsel for the petitioner further submits that while declaring the petitioner as the proclaimed person, the provisions of Section 82 Cr.P.C. have not been complied with, inasmuch as, as per the report of the Serving Constable, when he went to execute the proclamation warrants, Sukhjinder Singh (the petitioner) could not be found at the given address i.e. House No.739/21, Sector-21, Panchkula and on enquiry, it was informed that Sukhjinder Singh did not reside there and thus, the proclamation warrants were pasted on the main gate of the said house. He further submits that, though, as per the report of the Serving Constable, the petitioner did not reside at the given address, yet he has been declared as the proclaimed person on 06.12.2019 by the Court below. Still further, it is submitted that proceedings in the above noted FIR are still going on and other accused are facing trial.

Per contra, while opposing the prayer made in this petition, learned State counsel submits that the petitioner has been absconding from the Court of law since 04.04.2019 and thus, he does not deserve any concession, at this belated stage.

I have heard the learned counsel for the parties.

It is a case, wherein, the petitioner had been regularly appearing before the Court, but he could not appear on a solitary date i.e. 04.04.2019, due to ill-health of his father, who ultimately passed away and thus, his non-appearance on the said date was unintentional.

As per the report of the Serving Constable, the petitioner was not residing at the given address, yet he has been declared as the proclaimed person vide impugned order.

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.

Though the petitioner absented himself from the Court proceedings, yet he is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is allowed and the order dated 06.12.2019 passed by the learned Additional Sessions Judge, Panchkula, along with all the consequential proceedings arising therefrom, are hereby set aside, subject to the petitioner depositing the costs of Rs.50,000/- with the concerned District Legal Services Authority

The petitioner to directed surrender before the trial Court/Duty Magistrate, within a month from today and on his doing so, he shall be released on bail, subject to him furnishing fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

22.11.2022

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*