

121 THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58740-2022

Date of Decision: 16.12.2022

Krishan Mohan Khandelwal

...Petitioner

V/s

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Ms. Amit Sharma, Advocate
for the petitioner.

DEEPAK MANCHANDA J.

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure for quashing of order dated 07.10.2022 (Annexure P-1) passed by the Judicial Magistrate Ist Class, Gurugram vide which petitioner has been declared as proclaimed person in case No. NACT/15803/2017 in case titled as “*M/s. Shree Umesh Gupta Enterprises Ltd. Vs. M/s. Romesh Power Products Pvt. Ltd. and Ors.*”.

Learned counsel for the petitioner contends petitioner was granted the concession of bail at the inception of the case and thereafter he was appearing before the trial Court on each and every date. However, on 10.11.2021, he failed to appear before the trial Court due to eye flue and fever and applied for exemption from personal appearance from learned trial Court. But the said application was dismissed. Thereafter, on 22.07.2022, proceedings under Section 82 of Cr.P.C. were initiated against the petitioner by learned JMFC, Gurugram and finally vide order dated 07.10.2022, petitioner was declared as proclaimed offender.

He further submits that the petitioner is ready and willing to join the trial proceedings.

Notice of motion.

At this stage, Mr. Bhupender Singh, DAG Haryana, who is present in the Court accepts notice on the asking of the Court and submits that the order proclamation proceedings have been issued against the petitioner only on the sole ground of absence of the petitioner.

The objective of Section 82 of the Code is to secure the presence of the accused. Once the accused is willing to appear and join trial proceedings, the objective has been achieved.

Consequently, the instant petition stands allowed and impugned order dated 07.10.2022 (Annexure P-1) is set aside. However, arrest of the petitioner is stayed for a period of 2 weeks enabling him to put in appearance before the trial Court to face trial. He is directed to surrender before the trial Court on or before 30.12.2022 and on him doing so, he would be admitted to bail subject to his furnishing personal bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is made clear that if the petitioner does not present himself before the trial Court within the stipulated time, interim protection granted to him will be deemed to have been automatically vacated.

(DEEPAK MANCHANDA)
JUDGE

December 16, 2022
Ajay Goswami

Whether reasoning given	Yes
Whether reportable	Yes/No