

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

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**CRM-M-59432-2022 (O&M)
Date of decision: 19.12.2022**

Ganesh Kumar @ Ganesh Dutt

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vishal Munjal, Advocate for the petitioner.

Mr. Harkanwar Jeet Singh, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through the present petition, the petitioner prays for quashing of the order dated 14.11.2022 passed by the learned Judicial Magistrate 1st Class, Pathankot, in case bearing FIR No. 60 dated 21.05.2016, registered under Sections 323, 325, 201, 34 IPC, at Police Station Division No.2, District Pathankot, vide which the petitioner was declared a proclaimed person.

Learned counsel for the petitioner contends that the proclamation was issued against the petitioner on 27.01.2020 under Section 82 Cr.P.C. with a direction to appear within 30 days from the date of proclamation; that it was a Covid-19 period and the case was adjourned from time to time; that on 22.11.2021, the proclamation under Section 82 Cr.P.C. was again issued as the statutory period of 30 days has lapsed and the petitioner has been declared a proclaimed person vide order dated 14.11.2022 and that it is noted in the order dated 14.11.2022 that on 21.01.2022, the petitioner was not declared a proclaimed person due to over sight or typographical mistake.

Learned counsel for the petitioner submits that the petitioner is ready to appear before the learned trial Court.

Notice of motion.

On the asking of this Court, learned State counsel, accepts notice and opposes the submissions made by the learned counsel for the petitioner.

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. The absence of the petitioner before the Court below appears to be non-intentional. If an accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

The petitioner is ready to appear before the learned trial Court, 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 disposed of with a direction to the petitioner to surrender before the trial Court/Duty Magistrate, within 15 days from today, subject to him depositing the costs of Rs.10,000/- with the District Legal Services Authority, Pathankot. On his doing so, the petitioner shall be released on anticipatory bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

19.12.2022

Mangal Singh

(HARNARESH SINGH GILL)

JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No