

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

244+110

CRM-M-15685-2021 (O&M)
Date of decision: 21.07.2023

Hunny Panwar ...Petitioner
Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Mrigank Sharma, Advocate for the petitioner.
Ms. Ankita Ahuja, AAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

CRM-29773-2023

Application is allowed as prayed for. Annexure P-7 is taken on record.

CRM-29775-2023

Application is allowed as prayed for.

Main case:

Prayer in the present petition filed under Section 482 Cr.P.C. is to set aside the order dated 14.06.2019 (Annexure P-1) passed by the learned Chief Judicial Magistrate, Kaithal, in case bearing CHI No.135-2016 in FIR No.304 dated 24.09.2015, under Sections 406, 420 and 506 IPC, registered at Police Station Kaithal City, District Kaithal, vide which the petitioner has been declared as proclaimed person.

Learned counsel for the petitioner submits that the petitioner was granted interim bail and thereafter, he had been regularly appearing before the trial Court; that only on one date, he could not appear before the Court due to bereavement in the family and even the application for exemption was also

dismissed; that on 09.05.2019, a fresh proclamation was issued for 17.05.2019. On 17.05.2019, the proclamation was received back duly executed and the matter was adjourned to 14.06.2019 as 30 days from the date of proclamation i.e. 13.05.2019 did not elapse. On 14.06.2019, the petitioner was declared as proclaimed person. It is, thus, contended that mere adjourning the matter to cover the period of 30 days, is not legally sustainable, when the petitioner was not afforded an opportunity of clear 30 days time to cause his appearance before the trial Court.

Learned counsel for the petitioner further submits that vide order dated 09.04.2021 passed by this Court, direction was issued that in the meantime, no coercive action shall be taken against the petitioner. The petitioner has surrendered on 03.12.2021 and as per the zimini orders dated 09.01.2023, 03.07.2023, 10.07.2023, 17.07.2023 passed by the learned Chief Judicial Magistrate, Kaithal, annexed as Annexure P-7, the petitioner is regularly appearing before the Court.

This fact has not been disputed by the learned State counsel.

I have heard the learned counsel for the parties and have also gone through the case file.

It is a case, wherein, the petitioner had been regularly appearing before the Court, but only on a solitary date, he could not appear before the trial Court due to bereavement in his family and even the application for exemption was also dismissed. The non-appearance is not intentional.

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.

Keeping in view the above fact, but without expressing any opinion on the merits of the case, the order dated order dated 14.06.2019 (Annexure P-1) passed by the learned Chief Judicial Magistrate, Kaithal, is set aside. Since the petitioner is regularly appearing before the learned trial Court, he shall be released on bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

21.07.2023

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No