

CRM-M-37654-2023

116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37654-2023
Date of Decision: 03.08.2023

Jorawar Singh alias Sonu

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Vikas Gupta, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, praying for setting aside the order dated 28.02.2023 (Annexure P-3) passed by the Additional Chief Judicial Magistrate, Tarn Taran, whereby the petitioner has been declared as proclaimed offender in case FIR No.409 dated 03.12.2019 registered under Section 61 of the Excise Act, 1914, at Police Station Sadar Tarn Taran, District Tarn Taran.

2. It is submitted by counsel for the petitioner that the petitioner was arrested and granted bail in this very case by the police in the year 2019. Thereafter, the challan was filed on 17.05.2022, after a long gap of around three years. However, after presentation of the challan, the petitioner could not get the notice of the same and, therefore, he could not appear before the trial Court on 16.08.2022 and on the subsequent dates. As a result thereof, the petitioner has been declared as proclaimed person. The absence of the petitioner from the Court proceedings was not deliberated or intentional. The petitioner does not flee from the course of justice. He undertakes to appear before the Court regularly. Hence, the petitioner deserves to be protected

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against his arrest.

3. Notice of motion.
4. Mr. Sandeep Singh, Additional Advocate General, Punjab, accepts notice on behalf of the respondent State. He submits that although the petitioner does not deserve the concession of bail because he had earlier absconded from the process of law, however, the State has no objection if the petitioner appears before the trial Court.
5. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remain present before the Court to receive the orders and punishments 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.
6. In view of the above, the present petition is allowed and the order dated 28.02.2023 (Annexure P-3) passed by the court of Additional Chief Judicial Magistrate, Tarn Taran, is quashed, subject to the petitioner appearing before the Trial Court on or before 21.08.2023. It is further directed that in case the petitioner so appears before the trial Court on or before 21.08.2023, then the petitioner shall be released on bail on his furnishing bail bonds/sureties to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

(RAJBIR SEHRAWAT)
JUDGE

03.08.2023
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No