

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

CRM-M-42394-2023

Date of Decision: 25.08.2023

Ravinderpal Sharma and another

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Nikhil Ghai, Advocate, and
 Mr. Shubham Mangla, Advocate,
 for the petitioners.

RAJBIR SEHRAWAT, J. (ORAL)

1. The present petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of the impugned order dated 15.07.2017 passed by the Civil Judge (Junior Division)-cum-Judicial Magistrate Ist Class, Malerkotla, whereby the petitioner has been declared as proclaimed persons in case FIR No.3 dated 05.01.2016, registered under Sections 420 and 120-B of the Indian Penal Code, 1860, at Police Station Amargarh, District Malerkotla.
2. It is submitted by the learned counsel for the petitioners that during the proceedings, the notices issued to the petitioners were sent on the wrong addresses. Therefore, they were not aware of the proceedings against them pending before the Trial Court. As a result thereof, the petitioners could not appear and the Trial Court, vide order dated 15.07.2017, has declared the petitioners as a proclaimed person. The absence of the petitioners from the court proceedings was not intentional. The petitioners are not intending to avoid the process of Court. Rather, they undertake to appear before the Trial Court regularly. Hence, the petitioners deserve to be protected against their

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 petitioners do not deserve the concession of bail because they had absconded from the process of law, however, the State has no objection, if the petitioners appear 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 impugned order dated 15.07.2017 passed by the Civil Judge (Junior Division)-cum-Judicial Magistrate Ist Class, Malerkotla, is quashed, subject to the petitioners appearing before the Trial Court on or before 20.09.2023. It is further directed that in case the petitioners so appear before the Trial Court on or before 20.09.2023, then they shall be released on bail on their furnishing bail bonds/sureties to the satisfaction of the Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(RAJBIR SEHRAWAT)
JUDGE

25.08.2023
adhikari

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No