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

CRM-M-48215-2023
Date of Decision: 25.09.2023

Pardeep Kumar ..... Petitioner

Versus

Arvind Sood ..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Jasbir Singh Dadwal, Advocate,
for the petitioner.

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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 03.02.2023, whereby the petitioner was declared as proclaimed person in Criminal Complaint No.NACT/127/2017 dated 28.04.2017 titled as 'Arvind Sood Versus M/s Sawan Buildtech and another' filed under Section 138 of the Negotiable Instruments Act, 1881, along with all subsequent proceedings arising therefrom.

2. It is submitted by the learned counsel for the petitioner that the petitioner was granted regular bail by the Court below. Thereafter, the petitioner had been appearing before the Trial Court regularly. However, on 30.09.2022, the petitioner could not appear before the Trial Court because he was in judicial custody in another case till 18.07.2023. As a result thereof, the Trial Court, vide order dated 30.09.2022, had cancelled the bail of the petitioner and forfeited the bail/surety bonds furnished by the petitioner and

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had also issued the non-bailable warrants against him. Vide order dated 01.12.2022, proclamation proceedings were initiated against the petitioner and simultaneously warrants of attachment of the property of the petitioner were issued for 03.02.2023. Thereafter, vide order dated 03.02.2023, petitioner has been declared as a proclaimed person. The absence of the petitioner from the court proceedings was not intentional. The petitioner is not intending to avoid the process of Court. Rather, he undertakes to appear before the Trial Court regularly. Hence, the petitioner deserves to be protected against his arrest.

3. 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.

4. In view of the above, the present petition is allowed and the order dated 03.02.2023 (Annexure P-7) passed by the court of Judicial Magistrate Ist Class, Derabassi, is quashed, subject to the petitioner appearing before the Trial Court on or before 12.10.2023. It is further directed that in case the petitioner so appears before the trial Court on or before 12.10.2023, then he 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

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

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