

CNR No: PBJL030438792022

CIS No: CHI-24373-2022

STATE OF PUNJAB VS SHALINI

Present : Sh. Kanwar Bilawal Singh, Ld. APP for the State assisted by Sh. MS Sachdev, Advocate for the complainant.  
Sh. KK Kohli, Advocate for the accused Shailin Gaur (Exempted for today only).  
Accused Vishal Gaur PP.

**ORDER :**

1. Heard on the application moved on behalf of complainant Arshdeep Mahajan for attachment of the property bearing Flat No. 2401, A5 Tower, Cleo County Society, Sector-121, Noida, Uttar Pradesh which is the name of accused Vishal Gaur and also attach his bank account with ICICI Bank, Krishan Nagar, Delhi East. It is submitted that as the accused Vishal Gaur has been declared proclaimed offender on 13.02.2023. As per law, his properties are liable to be attached and details of property mentioned in the application. Prayer is made to accept this application.

2. Ld. Counsel for the accused filed reply by taking preliminary objections that the answering respondent maintains the highest standard of lawfulness, adhering to all norms, rules and regulations, while exhibiting exemplary conduct. It is pertinent to mention that the property bearing Flat No. 2401, A5 Tower, Cleo County Society, Sector 121, Noida - 201301, Uttar Pradesh which the complainant seeks to attach consequent to the answering respondent being declared as a Proclaimed Offender, is jointly owned by the answering respondent Vishal Gaur and his mother Shalini Gaur. Presently, the answering respondent's sister Megha Gaur, resides with her mother. It is imperative to put forth that the mother of the answering respondent Shalini the mother of the answering respondent, is a

law-abiding senior citizen who recently lost her husband, rendering her a widow, having no source of her own income. The property in question is rightfully in her name as well. Depriving her and her daughter, Ms. Megha Gaur, of their right to a peaceful living environment would be unjust and unfair in the eyes of the law. The complainant appears to be attempting to create unnecessary difficulties in their lives, particularly for the mother, who is an aged widow and holds an equal share in the property as the answering respondents. Moreover, with regard to the aforementioned property, it has been acquired through a loan and is currently being utilized as collateral for the said loan. Given that the property is already occupied by the mother and sister and is presented as collateral to a financial institution, it is imperative that it cannot be made subject to attachment in the interest of justice. Ultimately, prayed for dismissal of the present application.

3. Heard. File perused. Perusal of application shows that complainant seeks for attachment of flat and two bank accounts existing in the name of Vishal Gaur. The only objection taken by appearing accused Shalini Gaur is that the flat is jointly owned by her with accused Vishal Gaur. It is important to mention here that Vishal Gaur is son of Shalini Gaur but accused Vishal Gaur is declared as proclaimed person. On one hand, Shalini Gaur is raising objection regarding attachment of the flat on the ground that she is residing in the said flat. The fact regarding her share in the flat is to be decided later on but as per the law laid down by Hon'ble Karnatka High Court in "Sri Nithya Shambhavananda @ R.

Narayanan Vs. State of Karnataka”, it is clear that attachment is to be done to ensure the presence of proclaimed persons. Perusal of the application shows that two bank accounts are in the name of accused Vishal Gaur which are required to be attached. So both the bank accounts are ordered to be attached and intimation regarding the same be sent to the concerned banks immediately. It is further made clear that the half share of accused Vishal Gaur in the house is also required to be attached. It is important to mention here that the Ld. Counsel for complainant Sh. M. S.Sachdeva argued that there is no bar on attachment of residential house in criminal proceedings. It is also pertinent to mention here that even law provides no such bifurcation in cases of residential house in criminal cases. So the half share of accused Vishal Gaur in aforementioned flat is also ordered to be attached. Intimation regarding the same be sent to the concerned authority. In view of the discussion made above, the present application stands allowed. Now to come up on 08.04.2025 for consideration on an application for permanent exemption.

**Pronounced in open Court.**

**Dated.27.02.2025**

***Renu\****

(Directly Dictated on computer)

**Shivani Garg, PCS**

**Judicial Magistrate 1<sup>st</sup> Class**

**Jalandhar (UID NO. PB00529)**