

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

102

CRM-M-43901-2016 (O&M).  
Decided on: December 8, 2016.

Sarwan Kumar @ Savan

.. Petitioner(s)

VERSUS

State of Punjab

.. Respondent(s)

\* \* \*

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

\* \* \*

PRESENT Mr.H.S.Thiara, Advocate,  
for the petitioner.

M.M.S. BEDI, J. (ORAL)

In a case FIR No.77 of 7.9.2012, registered under Sections 379 and 411 IPC, at Police Station, Division No.6, Jalandhar, the petitioner while facing trial had absented on 9.7.2013 and thereafter, on account of his absence and evasion to appear in the Court, he was declared a proclaimed offender. His application for pre-arrest bail has been dismissed mainly on the ground that he has been declared a proclaimed offender.

The legality and propriety of the order declaring the petitioner a proclaimed offender or violation of the provisions of Section 82 Cr.P.C. has not been challenged till date.

Counsel for the petitioner has argued that the petitioner is a poor person and did not have any notice regarding proceedings under Section 82 Cr.P.C., declaring him a proclaimed offender. It has also been argued that the petitioner is not mentally stable. A fresh plea has been raised in this petition for the first time that he had received head injury.

Taking into consideration the totality of the circumstances i.e. the nature of the allegations that the petitioner was allegedly found in possession of stolen motorcycle and the trial being pending since 2012, I deem it appropriate, in the interest of justice, striking a balance between the right of personal liberty of the petitioner and the right of prosecution agency to secure presence of accused at the time of trial or at the time of decision of the trial, to give a fair opportunity to the petitioner to join the stream of due process of law by surrendering before the Illaqua Magistrate/trial Court within a period of one month.

Notice to the Advocate General, Punjab.

On asking of the Court, notice has been accepted by Ms.H.K.Athwal, DAG., Punjab, present in the Court. Copy given.

This petition is disposed of with a direction that in case the petitioner surrenders before the trial Court within a period of one month from today, the said Court shall issue notice for a period of two days to the prosecution agency and release the petitioner on bail with liberty to the prosecution agency to present supplementary challan, in accordance with law.

It is made clear that in case the petitioner does not surrender within a period of one month as stated above before the Illaqua Magistrate/trial Court, this petition will be deemed to have been dismissed.

**(M.M.S. BEDI)**  
**JUDGE**

**December 8, 2016.**  
**rka**

Whether speaking / reasoned  
Whether reportable:

Yes / No  
Yes / No