

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

**CRM M No.2998 of 2018 (O&M)
Date of Decision: 09.08.2018.**

Sajjan @ Malli

..Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Jaswinder Singh Grewal, Advocate
for the petitioner.

Mr. M.S. Naryal, DAG, Punjab.

RAJ SHEKHAR ATTRI J. (ORAL)

Status report by way of affidavit of Sh. Yadwinder Singh, PPS, Deputy Superintendent of Police (City), Ferozepur has been filed today in Court on behalf of respondent-State of Punjab. The same is taken on record. Copy thereof is supplied to counsel for the petitioner.

Learned counsel for the petitioner submits that according to prosecution Khari @ Munna son of Lal resident of village Kudma armed with .12 bore gun, Sajjan @ Malli son of Amarjeet resident of Basti Awa Ferozepur City having pistol in his hand, Ajju son of Desa resident of village Khalchian Kadeem who was armed with riffle, Sanju son of Raja resident of Basti Tankan Wali armed with Kappa and Parveen wife of Raja resident of Basti Tankan Wali Ferozepur were standing in front of complainant house. Upon seeing him, petitioner-Sajjan @ Malli raised lalkara to catch him and not to let him go unhurt whereupon Khari @

Munna put his .12 bore gun straight towards the complainant with an intention to kill him, but it injured none. No injury has been attributed to the petitioner. Even during investigation the petitioner was found innocent. However, along with the remaining accused, he has been summoned under Section 319 Cr.P.C. to face trial.

He further submitted that proceedings under Section 82 Cr.P.C., was issued in a defective manner on 13.10.2017 for 31.10.2017 and thus, statutory 30 days period was not given.

It transpires that on 13.10.2017 proclamation under Section 82 Cr.P.C., was issued against the petitioner for 31.10.2017. On 31.10.2017 though the proclamation was received by the Court but the case was adjourned to 01.11.2017 for recording the statement of serving Police Officer. Thereafter, the case was then adjourned to 27.11.2017 for awaiting the presence of the petitioner.

From the above facts it is revealed that the statutory period of 30 days as provided under Section 82 Cr.P.C., is not given in the present case and therefore the impugned order declaring the petitioner as proclaimed offender is illegal and unsustainable in the eyes of law.

Accordingly, the present petition is allowed and the impugned order dated 27.11.2017 declaring petitioner as proclaimed offender as set aside.

(RAJ SHEKHAR ATTRI)
JUDGE

09.08.2018
rekha

whether speaking/reasoned
whether reportable

Yes/No
Yes/No