

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

CRM-M-32723-2018

Date of decision: November 29, 2018

Harbant Singh

....Petitioner

Versus

Yadwinder Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. H.S. Kotli, Advocate for
Mr. J.S. Khiva, Advocate
for the petitioner.

RAJ SHEKHAR ATTRI, J.(ORAL)

Petitioner has preferred the instant petition under Section 438 Cr.P.C., for grant of anticipatory bail in complaint case No.270 dated 04.07.2017, registered under Section 138 of Negotiable Instruments Act.

Petitioner was declared proclaimed offender but the record transpires that he was not properly served. A bare perusal of Annexure P-2 transpires that notice sent to the accused was not received back either served or otherwise. In spite of that, he was ordered to be summoned through bail warrants of arrest. Although, he was served throughailable warrants of arrest, ultimately, he was ordered to be summoned through non-bailable warrants of arrest vide order 01.11.2017 (Annexure P-4). It transpires that those warrants has not been received back and trial court initiated the proceedings under Section 82 Cr.P.C. without awaiting the report on the non-bailable warrants and ultimately, he was declared proclaimed offender and it was ordered on 3rd February, 2018 that proclamation issued against him for 27.02.2018. Again vide order dated 07.04.2018, proclamation was issued for 21.04.2018 and thereafter on 21.04.2018, it was stated that the petitioner been duly served but period of 30 days had not been expired.

To the mind of this court, proper procedure has not been adopted by the trial court.

In this view of the matter, impugned order suffers from infirmity and illegality. As such, the same is not sustainable in the eye of law.

Petitioner has joined the proceedings. As such, order dated August 1, 2018 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

Petition stands allowed.

(RAJ SHEKHAR ATTRI)
JUDGE

November 29, 2018

m. sharma

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No