

CRM-M-46416-2019

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

CRM-M-46416-2019

Date of Decision:31.10.2019

Amarjit Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Amit Dhawan, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J.

Prayer in this petition is for quashing of the impugned order dated 08.01.2010 (Annexure P-2) passed by the learned Sub Divisional Judicial Magistrate, Phagwara, vide which the petitioner has been declared proclaimed offender in FIR No.05 dated 26.01.2005, registered at Police Station GRP, Jalandhar, under Section 61 of the Punjab Excise Act, 1914.

Counsel for the petitioner contended that even as per the record of the trial Court, the proclamation was issued vide order dated 20.11.2009 for 18.12.2009. However, the record of the trial Court itself shows that the notice was pasted at the house of the petitioner only on 03.12.2009. Since the mandatory period of 30 days had not elapsed, therefore, on 18.12.2009, the matter was adjourned by the trial Court for 08.01.2010. The mere fact that the Court had adjourned the matter after the period of 30 days, would not be treated as compliance of the provisions of Section 82 (1) of the Cr.P.C. Hence, the petitioner was not given the mandatory period of 30

CRM-M-46416-2019

Court. The petitioner has been got declared as proclaimed offender in total violation of Section 82 of Cr.P.C. It is further contended by counsel for the petitioner that the petitioner has no intention to flee from the course of justice and has intended to appear before the trial Court to face the further proceedings. He would regularly appear before the trial Court. The prayer made is only that the petitioner be protected from the arrest.

Notice of motion.

On the asking of this Court, Mr. S.S.Cheema, AAG, Punjab, accepts notice on behalf of the State.

Heard.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains 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.

In view of the above, the present petition is allowed and the impugned order dated 08.01.2010 is set aside, subject to the petitioner appearing before the trial Court on or before 08.11.2019. It is further directed that in case, the petitioner so appears before the trial Court then the petitioner shall be released on bail on his furnishing bail bond/surety to the satisfaction of the trial Court.

31.10.2019

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Note:	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No