

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

CRM-M-49262-2019 (O&M)

Date of decision : 21.11.2019

Vikas Walia @ Vikash Walia

...Petitioner

Versus

Ashok Mittal

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.S. Malwai, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Notice of motion.

Mr. Vivek Goyal, Advocate accepts notice on behalf of the respondent.

Order declaring the petitioner a proclaimed offender has been challenged in the present petition.

Section 82 of the Code of Criminal Procedure, 1973 (hereinafter to be referred to as “the Cr.P.C.”) mandates that proclamation shall be published in the manner prescribed by giving a period not less than 30 days to the person against whom publication is being made for appearance in the Court. Sub-Section 1 of Section 82 of the Cr.P.C. statutorily provides minimum notice of 30 days from the date of publication of such proclamation.

In the present case, publication of proclamation is dated

14.08.2019 for 02.09.2019. Thus, the period given to the accused to appear pursuant to the publication was not meeting the requirement of minimum 30 days notice.

Learned Judicial Magistrate before whom the bail bonds were to be furnished, noticed that fact but rather than ordering fresh publication, adjourned the case to 14.09.2019 and thereafter to 21.09.2019 when the impugned order was passed.

In view of the aforesaid facts, publication of proclamation was not in accordance with requirement of Section 82 of the Cr.P.C.

Accordingly, order dated 21.09.2019 is set aside.

However, keeping in view the facts of the case, petitioner is bound down to appear before the Appellate Court where appeal is pending on 02.12.2019 at 10:00 AM.

In view of the above, the present petition is allowed.

21.11.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No