

127.

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

CRM-M-40499-2021

Date of Decision: 29.09.2021

(Heard through VC)

SUNNY @ SUNNY KUMAR

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. K.S. Lakhanpal, Advocate, for
Mr. Lakhwinder Singh Mann, Advocate, for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

JAISHREE THAKUR.J (Oral)

This is a petition that has been filed under Section 482 Cr.P.C. for quashing the impugned order dated 28.07.2014 passed by the learned JMIC, Nakodar in FIR No.22, dated 19.01.2014, registered under Sections 323, 341, 354, 148, 149 of IPC at Police Station Shahkot, District Jalandhar City, vide which the petitioner has been declared proclaimed offender.

Learned counsel for the petitioner, at the very outset, would contend that there was non-compliance of Section 82(1) of Cr.P.C. in so far as proclamation was not properly effected in terms of said section. It is argued that the order declaring the petitioner as proclaimed offender is not sustainable. In support of his arguments, he has relied upon a judgment

rendered in *Ashok Kumar Versus State of Haryana and another-2013(4) R.C.R. (Criminal) 550*, and submits that the petitioner herein was not given the mandatory period of 30 days to appear before the court as service was effected upon him only on 22.05.2014 for appearance the very next day.

Notice of motion.

At this stage, Mr. Rana Harjasdeep Singh, DAG, Punjab, has put in appearance through the medium of video conferencing and accepts notice on behalf of respondent-State.

I have gone through the record and have heard learned counsel for the petitioner as well as the Deputy Advocate General, Punjab.

The proclamation order is dated 24.04.2014 and as per the report and statement of Balwinder Singh, the service was effected upon the petitioner herein on 22.05.2014 for appearance on 23.05.2014.

The mere fact that the court adjourned the case for another period of 30 days would not be treated as compliance of the provisions of Section 82(1) of Cr.P.C. Section 82(1) Cr.P.C. is reproduced as under:-

“82. Proclamation for person absconding. (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.”

In view of above, it is clear that there is no compliance of Section 82(1) of Cr.P.C. as publication was effected on 22.05.2014 and the

petitioner was directed to appear in the court on 23.05.2014, which period is less than 30 days. Therefore, as there was non-compliance of the provisions of Section 82(1) of Cr.P.C., this Court has no hesitation in setting aside the impugned order. However, arrest of the petitioner is stayed limited for a period of two weeks to enable him to put in appearance in the court below and face trial and on such appearance, he be admitted to bail.

Petition stands disposed of accordingly.

(JAISHREE THAKUR)
JUDGE

29.09.2021

sanjeev

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No