

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No.5508 of 2021
Reserved on: 09.09.2022
Pronounced on : 14.09.2022

Mohd. SakirPetitioner

Vs.

State of HaryanaRespondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gorang Gupta, Advocate for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
71	19.06.2011	Bhondsi	279, 336, 337, 338 IPC & 196 M.V. Act

Seeking quashing of proclamation order dated 19-02-2016, passed by JMIC, Sohana, Annexure P-1, the accused has come up before this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.).

2. Petitioner was arraigned as an accused in the above captioned matter. On failure to serve the petitioner through the ordinary process, including summons,ailable warrants, and even non-ailable warrants, the concerned court finally proceeded against the petitioner under section 82 of Cr.P.C. and declared the petitioner a proclaimed offender vide order dated 19-02-2016, passed by JMIC Sohana, Annexure P-1.
3. The point to which the petitioner wants to draw the attention of this Court is that the absence was not willful, and was due to the factors beyond the petitioner’s control. The State could not dispute the factual matrix.
4. The petitioner has filed an additional affidavit wherein he has mentioned his address at the time of FIR and the subsequent change in address. Its perusal substantiates the petitioner’s stand. Given above, the petitioner has made a case on the preponderance of probability that the petitioner had no knowledge about summons, warrants, and appearance

as contemplated under section 82 Cr.P.C. Thus, the order is arbitrary and did not afford reasonable opportunity as mandated under Section 82 of Cr.P.C.

5. Consequently, the impugned order of proclamation order dated 19-02-2016, passed by JMIC Sohana, Annexure P-1, is set aside.

Petition allowed in the terms mentioned above. Interim bail is made absolute.

(ANOOP CHITKARA)
JUDGE

14.09.2022
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.