

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No.48330 of 2019
Reserved on: 09.09.2022
Pronounced on: 15.09.2022

Baldev Singh and anotherPetitioners

Vs.

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Avinash Mandla, Advocate for the petitioners.

Mr. Virat Rana, AAG, Punjab.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
141	26.05.2017	Sultanpur Lodhi, District Kapurthala	323, 341, 452 & 34 IPC

Seeking quashing of FIR and proclamation order dated 06-11-2018, passed by SDJM Sultanpur Lodhi, Annexure P-5, the accused has come up before this Court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.). Vide order dated 14-11-2019, the petition for petitioner no. 2 was dismissed as not pressed, thus, the present adjudication is only for petitioner no. 1.

2. Petitioner no. 1 was arraigned as an accused in the above captioned matter. On failure to serve the petitioner through the ordinary process, including summons, bailable warrants, and even non-bailable 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 06-11-2018, passed by SDJM, Sultanpur Lodhi, Annexure P-5.

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. Learned counsel restrict his prayer only qua the quashing of order of proclamation only.

4. The petitioner has filed an affidavit along with copy of his passport and Visas, to demonstrate that he had gone abroad on 02-11-2017, i.e., before the proceedings under

section 82 Cr.P.C. were initiated and finalized. 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 06-11-2018, passed by SDJM, Sultanpur Lodhi, Annexure P-5, is set aside.

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

(ANOOP CHITKARA)
JUDGE

15.09.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.