

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

**129**

**CRM-M-63598-2023 (O&M)**

**Date of decision: 18.12.2023**

SATNAM SINGH @ BOBBY

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANJIV BERRY**

Present : Mr. Paras Jagga, Advocate for the petitioner(s).

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**SANJIV BERRY. J. (Oral)**

By way of instant petition preferred under Section 482 CrPC, the petitioner has sought quashing of the impugned order dated 19.05.2023 (Annexure P-11) passed by Judicial Magistrate First Class, Patiala in Criminal Case No.CHI-388-2019, in case FIR No.201 dated 06.12.2018 registered under Section 61 of the Excise Act, 1914 at Police Station Pasyana, District Patiala, (Annexure P-1) vide which the petitioner had been declared as proclaimed person without following the due procedure laid down under Section 82 CrPC.

2. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner has been declared as proclaimed person vide the impugned order dated 19.05.2023 (Annexure P-11) without following the due procedure laid down by law specifically under Section 82 CrPC. It is submitted that the petitioner, after having been granted the concession of bail, had been appearing in the case but he absented from the proceedings on 30.03.2022 (Annexure P-2), due to some family problem and thereafter he never received any notice nor any warrants got served upon him. It is submitted that the proclamation under Section 82 CrPC was issued on 27.02.2023 (Annexure P-9) for 13.04.2023, which was effected on 11.04.2023 vide Annexure P-12, although the petitioner received no notice thereof. It is

submitted that thereafter the petitioner has been declared proclaimed person in the case vide order dated 19.05.2023 (Annexure P-11) for which date there was no proclamation ever issued, hence, there is violation of the provisions laid down under Section 82 CrPC. He submits that there is no other case against the petitioner and the petitioner is ready to face the trial.

3. Notice of motion.

4. On the asking of the Court, Mr. Subhash Godara, Additional A.G. Punjab, accepts notice on behalf of respondent-State and submits that the petitioner has absented from the proceedings without any intimation and has been declared as proclaimed person in this case as such.

5. After hearing the respective arguments and perusing the record, it transpires that the present petitioner, after having been booked in the FIR in question for having committed offence under Section 61 of the Excise Act, was granted the concession of bail and during the course of trial, he absented from the proceedings on 30.03.2022 (Annexure P-2). The process was issued for procuring the presence of the petitioner but of no avail and ultimately the learned trial Court issued proclamation under Section 82 CrPC vide order dated 13.12.2022 (Annexure P-8) for 27.02.2023. Since the proclamation was not received back, the learned trial Court vide order dated 27.02.2023 (Annexure P-9) issued fresh proclamation for 13.04.2023. On 13.04.2023, vide order Annexure P-10, as the proclamation was received back duly effected but the statutory period had not elapsed, the learned trial Court adjourned the matter for 20.05.2023 for awaiting the appearance of the accused. It is evident that in the statement of the serving official dated 11.04.2023 (Annexure P-12), there is no mention of the date and time when the said proclamation was effected by the executing official. Moreover, it is evident from the record that the petitioner was declared proclaimed person

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vide order dated 19.05.2023 (Annexure P-11) for which date admittedly there was no proclamation ever issued by the Court for the presence of the petitioner. Therefore, considering the fact that the report of the executing official (Annexure P-12) does not specify the date and time when the alleged proclamation was effected by him and also the fact that there was no proclamation issued by the Court for 19.05.2023, when the impugned order (Annexure P-11) was passed, whereby the petitioner was declared proclaimed person in the case, there is certainly violation of the provisions of Section 82 CrPC and for that reason the impugned order dated 19.05.2023 (Annexure P-11) is not sustainable in the eyes of law and as such is liable to be set aside.

6. Hence, in view of the above, the order dated 19.05.2023 (Annexure P-11) is hereby set aside and the petitioner is directed to appear in the Trial Court within 15 days from today. In that event, he is ordered to be released on bail on his furnishing personal/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. The petitioner will also furnish a specific undertaking that in future he will appear on each and every date of hearing without fail and only in case of extreme exigency will he seek prior exemption from the Court in accordance with law. He will not tamper with the evidence nor will influence the witnesses. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.

**(SANJIV BERRY)**  
**JUDGE**

**18.12.2023**  
*S.Sharma(syr)*

*Whether speaking/reasoned* : *Yes/No*

*Whether reportable* : *Yes/ No*