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therefore, they could not appear before the learned trial Court. Learned counsel further contends that on account of his non-appearance, the trial Court declared the petitioners as proclaimed persons vide order dated 14.09.2023 (Annexure P-1) and the intimation was further sent to SHO concerned to facilitate him to lodge an FIR against the proclaimed person for commission of offence under Section 174-A IPC. Aggrieved by the said impugned order dated 14.09.2023 (Annexure P-1), the petitioners have approached this Court by way of instant petition.

3. Learned counsel for the petitioners submits that the impugned order is liable to be set aside on the ground that the mandate of Section 82 Cr.P.C. has not been followed in its letter and spirit by the trial Court and the petitioners have been declared as proclaimed persons on 14.09.2023. In support of his arguments, counsel for the petitioners relies upon the judgment passed by this Court in *Sonu vs. State of Haryana 2021 (1) RCR (Cri.) 319* and the judgment passed by the Gujarat High Court in *Govindbhai Patel Vs. State of Gujarat 2004 (4) RCR (Criminal) 830*.

4. Learned counsel for the petitioners further submits that the matter has been compromised between the parties amicably and copy of compromise deed dated 08.01.2024 is also placed on record as Annexure P-3.

5. Learned State counsel supports the order passed by the learned trial Court by contending that the petitioners did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, proclamation was issued to secure their presence. Mr. Satnam Singh Thakur, Advocate puts in appearance on behalf of respondent Nos.2 & 3 and affirms the factum of compromise between the parties.



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6. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

7. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

8. A perusal of the impugned order reveals that the trial Court issued proclamation without recording reasons of its belief that the petitioners have absconded or is concealing themselves. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. In the judgment passed by this Court in ***Sonu Vs. State of Haryana 2021 (1) RCR (Crl.) 319***, it has been held that the conditions specified in Section 82 (2) Cr.P.C. for the publication of a proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation and proceedings subsequent thereto a nullity.

9. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court. The



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petitioners in the present case have themselves come forward and have undertaken to appear before the trial Court on each and every date.

10. In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 14.09.2023 (Annexure P-1) vide which the petitioners were declared proclaimed persons is set aside.

11. The petitioners are directed to appear before the trial Court within a period of 02 weeks from today and on their doing so, they shall be admitted to bail on their furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

12. The receipt of payment of costs imposed must be presented before the learned trial Court. The learned Court below is directed to grant bail to the petitioners only upon verification of the payment of said costs.

(HARPREET SINGH BRAR)
JUDGE

July 11, 2024
manisha

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No