

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

**CRM-M No. 5253 of 2024 (O&M)
Date of Decision: 01.02.2024**

Chander Parkash @ Moju

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Gursimar Singh Alagh, Advocate
for the petitioner.

Mr. Gurlal Singh Dhillon, Assistant Advocate General, Punjab

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 482 Cr.P.C., seeks quashing of the order dated 01.07.2017 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Ferozepur, whereby the petitioner was declared as Proclaimed Person in FIR No. 78 dated 27.05.2013 under Sections 21/ 61 / 85 of NDPS Act, registered at Police Station Cantt. Ferozepur, District Ferozepur (Punjab).

[2] In the present case, having been implicated as an accused in FIR (supra), the petitioner was initially granted bail by the Special Court vide order dated 31.05.2013; however on account of his non-appearance on subsequent date(s), he was declared as proclaimed person vide order dated 01.07.2017 (P-1).

[3] Impugning the aforesaid order dated 01.07.2017, learned counsel for the petitioner, while referring to the orders passed by the trial Court on 05.04.2017, 29.04.2017, 25.05.2017 & 07.06.2017 (Annexure P-4

colly), submits that that the proceedings while declaring the petitioner as proclaimed person were carried in utter violation of Section 82 Cr.P.C. and thus, the order dated 01.07.2017 is wholly vitiated and liable to be set aside.

[4] Learned State Counsel vehemently opposes the prayer made in the petition while submitting that despite having knowledge about the pendency of the proceedings, the petitioner chose not to appear before the trial Court and thus, the proceedings initiated against him warrant no interference.

[5] I have heard learned counsel for the parties as well as gone through the paper-book and find substance in submissions made on behalf of the petitioner.

[6] In the present case, the proclamation under Section 82 Cr.P.C. was ordered against the petitioner by the trial Court on 05.04.2017 for 29.04.2017; but on 29.04.2017, a fresh proclamation was ordered for 25.05.2017 which was later effected on 06.05.2017 with the date of appearance being 25.05.2017, however, the petitioner was declared as proclaimed person vide subsequent order dated 01.07.2017.

[7] A perusal of the zimni orders (Annexure P-4 colly) show that the proclamation under Section 82 Cr.P.C., which was ordered on 29.04.2017, was effected on 06.05.2017 for 25.05.2017 being the date of appearance of the petitioner, which clearly fell short of statutory period of 30 days as prescribed under Section 82 Cr.P.C. Moreover, the petitioner was declared as proclaimed person on 01.07.2017, whereas, for the said date, there was no specific proclamation ever ordered by the trial Court for the petitioner to put in appearance. Apparently, the proceedings under Section

82 Cr.P.C. were effected against the petitioner in total violation of the mandatory procedure as well as the statutory period prescribed under Section 82 Cr.P.C.

[8] Resultantly, the order dated 01.07.2017 (P-1) passed by learned JMIC, Ferozepur, is set aside; the petitioner is directed to surrender himself before the trial Court / Illaqa Magistrate concerned within seven days from today. Also considering the fact that the recovery from the petitioner was merely of one gram smack and he did not indulge himself in any kind of criminal activity since the date of non-appearance till date, the trial Court is requested to accept the fresh bail / surety bonds of the petitioner to its satisfaction and till then, no coercive steps shall be taken against him.

[9] **Disposed off** accordingly.

February 01, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>