



Court without following the proper procedure as laid down under Section 82 of Cr.P.C. as he was never served with the non-bailable warrants issued against him by the trial Court. Learned counsel for the petitioner has further argued that the petitioner has been falsely implicated in this case. He has drawn attention of this Court towards Annexure P-3, which is a copy of the affidavit jointly sworn by the parents of the victim, wherein they have deposed that they did not know the petitioner and he is not involved in this case and is innocent. It is further submitted that the petitioner is ready to surrender before the trial Court and join the proceedings of this case.

Learned State counsel has argued that the petitioner was aware of the pendency of the proceedings against him and he has intentionally been avoiding his appearance before the trial Court, therefore, the trial Court has rightly declared him a proclaimed person.

Heard.

Although the veracity of the document (Annexure P-3) cannot be assessed by this Court at this stage but keeping in view the fact that the petitioner is ready to surrender before the trial Court and join the proceedings, which would definitely help in speedy disposal of the trial, this Court, without making any comment on the legality of the impugned order, is inclined to let the petitioner surrender before the Court concerned. Accordingly, the petitioner is directed to surrender before the trial Court within a period of 15 days from today and on doing so, the trial Court shall release him on interim bail, subject to his furnishing personal/surety bonds to its satisfaction.

List again on 25.07.2024.

However, this relief shall be subject to payment of cost of Rs. 10,000/- to be deposited by the petitioner with the District Legal Services Authority, S.B.S. Nagar. The production of a receipt qua payment of this cost shall be a pre-requisite for enlarging the petitioner on interim bail by the trial Court.”

3. Learned counsel for the petitioner submits that due to lack of communication, the petitioner was not communicated about the direction



issued by this Court for surrendering before the learned trial Court in compliance of the aforesaid order.

4. I have heard learned counsel for the petitioner and perused the record with his able assistance.

5. 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 Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. 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.

6. In view of the aforesaid facts and circumstances, the present petition stands disposed of and the impugned order dated 10.04.2023 (Annexure P-2), vide which, the petitioner was declared proclaimed offender is quashed.

7. The petitioner is directed to appear before trial Court within a period of 04 weeks from today and on his doing so, he shall be admitted to bail on his 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 Patients Welfare Funds, PGIMER, Chandigarh for wasting precious time of the Court.

8. In case, the petitioner fails to comply with the directions issued by this Court, the present order granting bail to the petitioner shall automatically stand vacated.

9. The receipt of payment of costs imposed must be submitted before



the learned trial Court. The learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.

July 25, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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