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petition.

3. Learned counsel appearing for the petitioners submits that the bailable warrants issued to the petitioners were never served as they were not present at their home and, therefore, the finding of the trial Court that the petitioners are intentionally evading their arrest, is erroneous. Further, the trial Court has issued proclamation under Section 82 Cr.P.C. and ultimately, vide impugned order dated 14.02.2023, the petitioners have been declared as proclaimed offender. It is contended that the impugned order is liable to be set aside on the ground that the mandate of Section 82 of Cr.P.C. has not been followed in its letter and spirit by the trial Court.

4. Notice of motion.

5. Mr. Subhash Godara, Addl.A.G., Punjab, who is present in Court accepts notice on behalf of the respondent and 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.

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



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suffer from the vice of arbitrariness or unreasonableness.

8. 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.

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 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 14.02.2023 (Annexure P-5) vide which the petitioners were declared as proclaimed offender, is hereby set aside.

11. The petitioners are directed to appear before the trial Court within a period of 15 days 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, subject to payment of Rs.10,000/- as costs to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

29.05.2024

Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No