

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 62536 of 2023
Date of Decision: 16.01.2024

Kuldeep SinghPetitioner
Vs.
State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Arihant Jain, Advocate
for the petitioner.

Mr. Shiva Khurmi, A.A.G., Punjab.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
4	03.07.2017	VB, Ludhiana	7, 13 (3) of PC Act, 1988

Seeking quashing of proclamation order Annexure P-5, the accused has come up before this court under Section 482 of the Code of Criminal Procedure, 1973 (CrPC).

2. Petitioner was arraigned as an accused in the above captioned matter. On failure to serve the petitioner through the ordinary process, including summons, bailable warrants, and even non-bailable warrants, the concerned court finally proceeded against the petitioner under section 82 of CrPC and declared the petitioner a proclaimed offender vide order dated 31.08.2023.
3. The point to which the petitioner wants to draw the attention of this court is that the absence was not willful, and was due to the factors beyond the petitioner’s control. He further submits that compliance of order dated 14.12.2023 has been made. Copy of the receipt handed over by counsel for the petitioner is taken on record. The State could not dispute the factual matrix at this stage.
4. Given the above, the petitioner has made a case on the preponderance of probability that neither any sincere attempt was made to execute the warrants nor did the petitioner have any knowledge about appearance as contemplated under section 82 CrPC. Thus, the order is arbitrary and did not afford reasonable opportunity as mandated under Section 82 of CrPC.

5. Consequently, the impugned order of proclamation dated 31.08.2023, passed by Id. Additional Sessions Judge, Ludhiana, in this matter is set aside. Resultantly, the non-bailable warrants issued against the petitioner in the FIR captioned above, shall not be enforced. This order is subject to appearance of petitioner before the trial court/concerned Court on or before 01.02.2024. In case, petitioner fails to appear on or before the given date, this order stand re-called automatically without any further reference to this Court.

Petition allowed in the terms mentioned above.

(ANOOP CHITKARA)
JUDGE

16.01.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.