



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

CRM-M-6336-2025
Date of decision: 04.02.2025

Nirbhai Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Nitin Sherwal, Advocate for the petitioner.

Mr. J.S. Dhaliwal, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 528 of BNSS 2023 seeking quashing of order dated 15.01.2024 Annexure P-9 passed by the Court of Judicial Magistrate Ist Class, Barnala whereby the petitioner was declared as proclaimed offender and earlier order Annexure P-6 dated 02.09.2023 whereby non bailable warrants of arrest of the petitioner were issued by the trial Court on account of his non appearance in criminal case having FIR No.21 dated 15.04.2019, under Sections 420, 465, 467, 468, 471, 408 of IPC, registered at Police Station Mehal Kalan, District Barnala.

2. The counsel appearing on behalf of the petitioner *inter alia* submits that the learned trial Court directly issued the non bailable warrants of the petitioner without seeking his presence before the Court through summons/bailable warrants. It is further submitted that proper procedure was not followed by the learned trial Court and even otherwise the petitioner should have been declared as proclaimed person only, by the said Court. The petitioner is wrongly declared as proclaimed offender by the learned trial Court.

3. The present petition is resisted by the State counsel who *inter alia*



submits that the proper procedure was followed by the trial Court before declaring the petitioner as proclaimed offender. It is further submitted that there is no illegality in the impugned orders Annexure P-6 and P-9 and that the present petition deserves to be dismissed.

4. FIR in this case, was registered under Section 420, 465, 467, 468, 471 and 408 IPC against the petitioner. As per the provision of Section 82 Cr.P.C, the person cannot be declared as proclaimed offender in case, he is an accused in a case involving aforesaid offences. The petitioner could have been declared as a proclaimed person and not a proclaimed offender by the trial Court vide impugned order Annexure P-9. Further, one thing is clear that before passing of the impugned order, the learned trial Court had not recorded a satisfaction to the effect that the petitioner has absconded or concealing himself, so that warrants of arrest cannot be executed against him. In the given circumstances, the impugned order Annexure P-9 whereby the petitioner was declared as proclaimed offender by the trial Court is not legally tenable.

5. Further, the execution of non bailable warrants directly involves curtailment of liberty of a person and thus, the warrants of arrest are not to be issued mechanically, but only after recording satisfaction that in facts and circumstances of the case, it is warranted.

6. In light of the above discussion, the impugned orders Annexure P-6 and P-9 deserve to be set aside. Accordingly, the present petition is allowed and impugned orders Annexure P-6 dated 02.09.2023 and Annexure P-9 dated 15.01.2024 are hereby set aside qua the present petitioner.

04.02.2025

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**