

CRM-M-25447-2024
Date of decision: 27.01.2025

Versus

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Vikas Bhardwaj, AAG, Haryana.

1. The present petition has been filed under Section 482 of Cr.P.C. seeking quashing of order dated 21.02.2022 (Annexure P-4) in case bearing FIR No.191 dated 01.10.2019 under Sections 406/407/409/467/468/471 of IPC (Annexure P-1) registered at Police Station Ambala Sadar, whereby, the petitioner has been declared as proclaimed person.

'The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order dated 21.02.2022 (Annexure P-4) passed in FIR No.191 dated 01.10.2019 registered under Sections 406, 407, 409, 467, 468, 471 IPC, 1860 at Police Station Ambala Sadar wherein the petitioner has been declared a proclaimed person.

The learned counsel for the petitioner contends that as per the report on the proclamation (Annexure P-5) the Investigating Agency had visited the house of the petitioner bearing House No.378, Sector-1, Jail Lane, Ambala City where it was found that the property had been purchased by another person in a bank auction in the year 2020. The said fact also finds mention in the report under Section 173(2) Cr.P.C. (Annexure P-6).

Notice of motion for 03.09.2024.

In the meantime, the operation of the order dated 21.02.2022 (Annexure P-4) shall remain stayed.'



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3. Learned counsel for the petitioner submits that the petitioner undertakes to appear before the trial Court on each and every date.

4. The learned State counsel supports the order passed by the learned trial Court by contending that the petitioner 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 his presence.

5. 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.

6. 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 suffer from the vice of arbitrariness or unreasonableness.

7. A perusal of the impugned order reveals that the trial Court issued proclamation without recording reasons of its belief that the petitioner has absconded or is concealing himself. 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 of Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality.

8. 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 petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date and he has already approached this Court seeking anticipatory bail by way of filing CRM-M No.32138 of 2024 titled as ‘Aman Jain Vs. State of Haryana’.

9. In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 21.02.2022 (Annexure P-4) vide which the petitioner was declared as proclaimed person, is hereby set aside 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.

10. The receipt of payment of costs imposed must be presented before the learned trial Court. The learned Court below is directed to verify the payment of said costs.

(HARPREET SINGH BRAR)
JUDGE

27.01.2025
Neha

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