



281

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

CRM-M-63336-2023

Date of decision: 28.04.2025

Ravinder Singh @ Ravi and another

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Karnail Singh Ahhi, Advocate
for the petitioners.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. r/w Section 483 Cr.PC for quashing of order dated 15.09.2023 passed by learned Chief Judicial Magistrate, Sangrur in FIR No.45 dated 15.03.2019 registered under Sections 420, 465, 468, 471, 120-B IPC at Police Station City-1, Sangrur, vide which the petitioners were declared as proclaimed persons.

2. Learned counsel for the petitioners submits that the petitioners were declared proclaimed persons without issuing any notice to them and their sureties vide order dated 15.09.2023 passed by learned CJM, Sangrur. Learned counsel further submits that the investigating agency never presented a challan against the petitioners. Aggrieved by the said impugned order, the petitioners have approached this Court by way of instant petition. 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. Lastly, learned counsel for the petitioners submits that the petitioners undertake to appear before the trial Court on each and every date of hearing.

3. Learned State counsel supports the order passed by the learned trial Court by contending that the petitioners did not put in appearance before the learned trial Court intentionally and deliberately and, therefore, having left with no other option, the proclamation was issued to secure their presence.

4. 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.

5. 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.

6. A perusal of the impugned order reveals that the trial Court issued proclamation without issuing any notice to the petitioners or recording reasons of its belief that the petitioners have absconded or are concealing themselves. 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.

7. 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 learned trial Court on each and every date of hearing.

8. In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 15.09.2023, vide which the petitioners were declared proclaimed persons as well as all the consequential proceedings emanating therefrom, are hereby set-aside.

9. The petitioners are directed to appear before the learned trial Court within a period of 04 weeks from today and on doing so, they shall be admitted to bail on furnishing bail bonds and surety bonds to the satisfaction of the trial Court. Learned Court below is directed to grant bail to the petitioners in accordance with law.

10. However, in case, the petitioners fail to surrender before the learned trial Court within the stipulated time period, the interim protection granted by this Court, shall be deemed to be vacated.

(HARPREET SINGH BRAR)
JUDGE

28.04.2025

sonia

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No