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

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CRM-M-12611-2026 (O&M)

Date of Decision : 10.03.2026

Manga Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. M.S.Hundal, Advocate for the petitioner.

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MANDEEP PANNU J. (Oral)

1. The present petition has been preferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding Section 482 Cr.P.C), for quashing the impugned order dated 17.03.2025 vide which the petitioner has been declared as a proclaimed person in FIR No.320, dated 27.08.2021 registered under Section 22(c) and 29 of the NDPS Act and Section 42/52-A of Prisons Act at Police Station Islamabad, District Amritsar.

2. Learned counsel for the petitioner submits that the petitioner was granted bail vide order dated 04.07.2023 by the learned trial Court in the aforementioned FIR. Thereafter the petitioner was regularly appearing before the trial Court, however on 04.01.2025, the petitioner failed to appear due to miscommunication with his counsel. Due to his non-appearance his bail order was cancelled and bail bonds and surety bonds were forfeited to the State. Consequently, non-bailable warrants were issued against the petitioner. On 23.01.2025, proclamation was issued against the petitioner and thereafter on 14.02.2025, it was observed that proclamation is effected on 13.02.2025 and the case was adjourned to 17.03.2025 for recording of statement of serving official.



Ultimately on 17.03.2025, the petitioner was declared as proclaimed offender by observing that mandatory period of 30 days has been elapsed from the date of effecting of proclamation.

3. Learned counsel further submits that in view of the provisions contained under Section 82(4) Cr.P.C, the petitioner could not have been declared as 'proclaimed offender', but could only be declared as 'proclaimed person'. He further submits that the petitioner was not duly served and was consequently declared a proclaimed offender vide order dated 17.03.2025. It is contended that the mandatory requirements of Section 82 Cr.P.C. (now Section 84 of the BNSS) were not complied with, as the Court is required to record its satisfaction that the accused has absconded or is concealing himself and that the warrants could not be executed. Such satisfaction must be based upon the report of execution and the material placed on record.

4. Therefore, it is submitted that the impugned order is legally unsustainable and are liable to be set aside.

5. He further submits that the petitioner undertakes to appear before the trial Court on each and every date of hearing.

6. Notice of motion.

7. Mr. H.S.Wadhwa, DAG Punjab accepts notice on behalf of the respondent-State and supports the impugned order, contending that the petitioner deliberately avoided appearance, leaving the trial Court with no option but to issue proclamation to secure his presence

8. I have heard learned counsel for the petitioner and perused the record.

9. In the present case, the main contention raised on behalf of the petitioner involve interpretation of provisions of Section 82 of the Cr.P.C and same

is reproduced as below:-



[4. Where a proclamation published under Sub-Section (1) is in respect of a person accused of an offence punishable under section [302](#), [304](#), [364](#), [367](#), [382](#), [392](#), [393](#), [394](#), [395](#), [396](#), [397](#), [398](#), [399](#), [400](#), [402](#), [436](#), [449](#), [459](#) or [460](#) of the Indian Penal Code (45 of 1860) and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

5. The provisions of Sub-Sections (2) and (3) shall apply to a declaration made by the Court under Sub-Section (4) as they apply to the proclamation published under Sub-Section(1)]”

10. Finally, it has been argued that the petitioner has been wrongly declared to be a proclaimed offender in the present case. As per Section 82(4) Cr.P.C where a proclamation published under Sub Section 1 is in respect of a person/accused of an offence punishable under Sections [302](#), [304](#), [364](#), [367](#), [382](#), [392](#), [393](#), [394](#), [395](#), [396](#), [397](#), [398](#), [399](#), [400](#), [402](#), [436](#), [449](#), [459](#) or [460](#) of the IPC and such person fails to appear at a specified place and time required by the proclamation, the Court may after making such enquiry as it thinks fit pronounce him a proclaimed offender and make a declaration to that effect. In the present case, the present petitioner was being prosecuted for the offences punishable under Sections 22(c) and 29 of NDPS and said offences do not find mention in Section 82(4) Cr.P.C.

11. This Court finds sufficient force in the submissions made by learned counsel for the petitioner in this regard. It has been held by this Court in **CRM-M-34328-2011 (O&M)** titled as **“Rahul Dutta Vs. State of Haryana”** as follows:-

“ Till the amendment by Act No.25 of 2005, proclamation was being done in respect of a person against whom a warrant has been issued and who has been either absconding or concealing himself to evade the execution of warrants but by way of Act No.25 of 2005, in



consonance with Section 40(2)(ii), sub-section (4) is made a part of Section 82 Cr.P.C.

The offences mentioned in Section 82(4) Cr.P.C. are of recurring nature. All the persons, who are absconding or concealing themselves to evade execution of warrants of arrest, could be proclaimed persons but they could be declared a “proclaimed offender” only under the provisions of the IPC which are mentioned in Section 82(4) Cr.P.C. There is stark distinction between a proclaimed person and a proclaimed offender and for that reason, there is a difference of punishment provided under Section 174-A IPC as it provides imprisonment which may extend upto three years or with fine or with both regarding a person who has been proclaimed in terms of Section 82(1) Cr.P.C. and the imprisonment which may extend upto seven years and also with fine in respect of a person who is declared a “proclaimed offender” under Section 82(4) Cr.P.C.

I have also minutely examined those sections of IPC mentioned in Section 40(2)(ii) Cr.P.C. and have found that Sections 435, 450 and 457 IPC are not mentioned in Section 82(4) Cr.P.C., whereas Section 364, 367, 400 and 459 IPC are additionally mentioned therein. Learned counsel for the petitioner has also argued that Sections 83 to 86 Cr.P.C. deal with the proclaimed person and provide a complete procedure with regard to the attachment of his property but it does not deal with a person who has been declared to be a “proclaimed offender.

Thus, in view of the aforesaid discussion, I am of the considered opinion that the terms “proclaimed person” and “proclaimed offender” have different connotations. A person who is evading the execution of warrants of arrest issued under the particular Sections of the IPC which are mentioned in Section 82(4) Cr.P.C., can only be declared to be a proclaimed offender and the persons under the other provisions of the IPC and the laws, can be declared to be a proclaimed person in terms of Section 82(1) Cr.P.C.”



12. In view of the above discussion and the law laid down by this Court in the matter of Rahul Dutta (supra) the petitioner has been wrongly declared to be a proclaimed offender in the present case.

13. Further, the requisite date and place for appearance must be specified in the proclamation requiring such person to appear on such date at the specified place. Such date must not be less than 30 clear days from the date of issuance and publication of the proclamation. A co-ordinate Bench of this Court in **CRM-M-14209-2021 titled "Anita Sharma v. State of Punjab "**, date of decision **26.03.2021**, has summarized the essential requirements of Section [82](#) Cr.P.C. as under:-

"(i) Prior issuance of warrant of arrest by the Court is sine qua non for issuance and publication of the proclamation and the Court has to first issue warrant of arrest against the person concerned. (See Rohit Kumar v. State of Delhi: 2008 CrL J. 2561).

(ii) There must be a report before the Court that the person against whom warrant was issued had absconded or had been concealing himself so that the warrant of arrest could not be executed against him. However, the Court is not bound to take evidence in this regard before issuing a Proclamation under Section [82](#)(1) of the Cr.P.C.. (See Rohit Kumar v. State of Delhi: 2008 CrL J. 2561).

(iii) The Court cannot issue the Proclamation as a matter of course because the Police is asking for it. The Court must be prima facie satisfied that the person has absconded or is concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence. (See Bishundayal Mahton and others v. Emperor: AIR 1943 Patna 366 and Devender Singh Negi v. State of U.P.: 1994 CrL LJ (Allahabad HC) 1783).

(iv) The requisite date and place for appearance must be specified in the proclamation requiring such person to appear on such date at the specified place.



*Such date must not be less than 30 clear days from the date of issuance an publication of the proclamation. (See **GurappaGugal and others v. State of Mysore 1969 CriLJ 826** and **Shokat Ali v. State of Haryana: 2020(2) RCR (Criminal) 339**).*

*(v) Where the period between issuance and publication of the proclamation and the specified date of hearing is less than thirty days, the accused cannot be declared a proclaimed person/offender and the proclamation has to be issued and published again. (See **Dilbagh Singh v. State of Punjab (P&II): 2015 (8) RCR (criminal) 166** and **Ashok Kumar v. State of Haryana and another : 2013 (4) RCR (Criminal) 550**)*

*(vi) The Proclamation has to be published in the manner laid down in Section [82\(2\)](#) of the Cr.P.C. For publication, the proclamation has to be first publicly read in some conspicuous place of the town or village in which the accused ordinarily resides; then the same has to be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides or to some conspicuous place of such town or village and thereafter a copy of the proclamation has to be affixed to some conspicuous part of the **Court**-house. The three subclauses (a)-(c) in Section 82 (2)(i) of the Cr.P.C. are conjunctive and not disjunctive, which means that there would be no valid publication of the proclamation unless all the three modes of publication are proved. (See **Pawan Kumar Gupta v. The State of W.B.: 1973 CriLJ 1368**). Where the **Court** so orders a copy of the proclamation has to be additionally published in a daily newspaper circulating in the place in which the accused ordinarily resides. Advisably, proclamation has to be issued with four copies so that one each of the three copies of the proclamation may be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides, to some conspicuous place of such town or village and to some conspicuous part of the **Court**-house and report regarding publication may be made on the fourth copy of the proclamation. Additional copy will be required where the proclamation is also required to be published in the newspaper.*



(vii) *Statement of the serving officer has to be recorded by the **Court** as to the date and mode of publication of the proclamation. (See **Birad Dan v. State: 1958 CriLJ 965**).*

viii) *The **Court** issuing the proclamation has to make a statement in writing in its **order** that the proclamation was duly published on a specified day in a manner specified in Section 82(2)(i) of the Cr.P.C.. Such statement in writing by the **Court** is declared to be conclusive evidence that the requirements of Section 82 have been complied with and that the proclamation was published on such day. (See **Birad Dan v. State: 1958 CriLJ 965**).*

(xi) *The conditions specified in Section [82](#)(2) of the Cr.P.C. for the publication of a Proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the Proclamation and proceedings subsequent thereto a nullity. (See **Devendra Singh Negi alias Debu v. State of U.P. and another 1994 CriLJ 1783** and **Pal Singh v. The State: 1955 CriLJ 318**)".*

14. Perusal of the paper book reveals that the learned Judge Special Court, Amritsar ordered issuance of proclamation under Section 82 CrPC on 23.01.2025 against the accused for 14.02.2025, which was admittedly effected on 13.02.2025. On 14.02.2025, the case was adjourned to 17.03.2025 for recording the statement of serving official. On 17.03.2025, statement of serving official was got recorded and the petitioner was declared proclaimed offender.

15. This Court finds that the aforesaid procedure adopted by the learned trial Court does not satisfy the mandatory requirements of Section 82(1) CrPC. The mere fact that the case was adjourned for awaiting completion of one month from the date of issuance of the proclamation cannot be treated as due compliance with the statutory mandate. Section 82(1) CrPC clearly requires that the proclamation must specify a date and place for appearance of the accused, and such date must be



not less than 30 clear days from the date of publication of the proclamation, which is not so in the present case.

16. It is well settled that where the period between the date of publication of the proclamation and the date fixed for appearance is less than 30 clear days, the proclamation proceedings are vitiated and the accused cannot be declared a proclaimed offender. In such circumstances, a fresh proclamation is required to be issued and published in accordance with law. Reliance in this regard is rightly placed upon *Dilbagh Singh vs. State of Punjab, 2015 (8) RCR (Criminal) 166*.

17. In the present case, the proclamation was admittedly effected on 13.02.2025. Instead of issuing a fresh proclamation after ensuring compliance with the mandatory requirement of fixing a date beyond 30 clear days from the date of publication, the learned trial Court merely adjourned the matter to 17.03.2025 for awaiting the presence of the accused. Such adjournment cannot cure the inherent defect in the proclamation proceedings.

18. Therefore, this Court has no hesitation in holding that the essential requirements of Section 82(1) CrPC have not been complied with in the present case. Consequently, the proclamation order declaring the petitioner as a proclaimed offender is legally unsustainable.

19. The object behind issuance of non-bailable warrants or proclamation is only to secure the presence of the accused. In the present case, the petitioner has voluntarily approached this Court and undertaken to appear before the trial Court regularly.

20. Considering the totality of circumstances, this Court is of the view that the petitioner can be directed to appear before the trial Court/Duty Magistrate, so that trial may resume. Accordingly, plea of the petitioner is accepted. Impugned order dated 17.03.2025 are set aside to the extent of declaring the petitioner as

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‘proclaimed person’, and he is directed to be released on bail, in the eventuality of surrender by him before the trial Court/Duty Magistrate within a period of two weeks from today subject to payment of Rs.5000/- as costs to be deposited by the petitioner in Poor Patients Welfare Fund, PGIMER, Chandigarh.

21. The petitioner shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner will also submit an undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings will not be delayed because of his conduct.

22. It is made clear that in case, petitioner fails to appear before the trial Court/Duty Magistrate within a stipulated period, this order shall be deemed to be vacated.

23. With aforementioned terms, present petition stands disposed of.

24. All pending miscellaneous application(s), if any, stands disposed of.

March 10, 2026
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No