



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

132

CRM-M-1082-2025 (O&M)

Date of decision: 22.01.2025

Jasjit Singh @ Jass

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Jashandeep Singh Bains, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-1935-2025

Allowed as prayed for.

Documents are taken on record as Annexure P-8.

2. CRM-M-1082-2025 (O&M)

The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for quashing of order dated 08.06.2023 (Annexure P-4), passed by the Court of learned Sub Divisional Judicial Magistrate, Batala in case titled as ***State vs. Gurmeet Singh @ Goldy and others***, arising out of FIR No. 41 dated 26.02.2018, registered under Section 409, 380, 120-B of IPC and Section 25 of the Arms Act, 1959 at Police Station Civil Lines Batala, District Gurdaspur, whereby the petitioner had been declared a proclaimed offender.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in the aforementioned case. The petitioner was granted



concession of bail and was regularly appearing before the learned trial Court. However, on 01.02.2022, he absented from the Court proceedings due to misconception about date and thereafter, he could not appear before the Court as he was not well due to consumption of intoxicating substance and drugs. He had been declared a proclaimed offender without following the proper procedure prescribed under Section 82 of Cr.P.C. Hence, it is urged that the impugned order is liable to be set aside.

4. Learned Senior Deputy Advocate General, Punjab, appearing for the respondent-State, who has advance notice of the petition and is ready to argue the matter, has submitted that the petitioner had intentionally avoided his appearance before the learned trial Court. Therefore, he had rightly been declared a proclaimed offender. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

6. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section 82 Cr.P.C. as against the petitioner till the date of declaring him a proclaimed offender, I am of the considered opinion that the impugned order dated 08.06.2023 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

7. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 01.05.2023, the learned trial Court, on the basis of the report of Ahlmad that



the non-bailable warrants issued against the petitioner and other co-accused were received back unserved, had ordered for issuance of proclamation against the petitioner as well as co-accused for 08.06.2023. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has not recorded its proper satisfaction that that the petitioner had absconded or was concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence, which was in violation of the provisions of Section 82(1) of Cr.P.C. Reliance in this regard can be placed upon ***Rohit Kumar Vs. State of Delhi : 2008 CrL J. 2561.***

8. Further, a perusal of the statement of the serving police official ASI Balwinder Singh reveals that the proclamation was not read over in some conspicuous place of the town or village in which the petitioner was supposed to be residing. As per Section 82 (2) of 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 sub-clauses (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. Reliance in this regard can be placed upon ***Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368.***



9. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 08.06.2023 (Annexure P-4), passed by the Court of learned Sub Divisional Judicial Magistrate, Batala in case titled as ***State vs. Gurmeet Singh @ Goldy and others***, arising out of FIR No. 41 dated 26.02.2018, registered under Section 409, 380, 120-B of IPC and Section 25 of the Arms Act, 1959 at Police Station Civil Lines Batala, District Gurdaspur, whereby the petitioner had been declared a proclaimed offender, is quashed with all consequential proceedings arising therefrom.

10. However, the petitioner is directed to surrender before the Court concerned within a period of four weeks, subject to order for grant of anticipatory bail, if any passed on his petition to be filed under Section 482 of BNSS. In the absence of any order for grant of anticipatory bail and on such surrender, the petitioner shall be liable to be remanded to judicial custody subject to any order for grant of regular bail to be passed by the concerned Court in accordance with law.

11. Needless to observe that in case any application is filed before the concerned Court for grant of regular bail, then the concerned Court shall be bound to dispose of the same expeditiously and that nothing in this order shall be treated as expression of any opinion on merits so as to bind or influence the concerned Court in disposal of the same.

12. Till the appearance of the petitioner before the learned trial Court, his arrest shall remain stayed.

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13. It is made clear that in case the petitioner fails to appear before the learned trial Court within a period of four weeks from today, this petition shall be deemed to be dismissed.

22.01.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No