302

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-1556-2025
Date of Decision: 27.05.2025

ASLAM NOOR

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Naresh Kalia, Advocate for the petitioner.

Mr. K.D.Sachdeva, DAG, Punjab.

*****

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of the impugned order dated 16.10.2024 (Annexure P-8) passed by learned Sub Divisional Judicial Magistrate Sub Divisional Judicial Magistrate, Jagraon, in case CRM-221-2024, 'State vs. Aslam Noor and another', whereby the petitioner had been declared as proclaimed person in case FIR (Annexure P-1). Details of the FIR are mentioned below: -

FIR No.	Dated	Sections	Police Station
28	24.02.2024	15 and 25 of the NDPS Act IPC	Sadar Jagraon, District Ludhiana

2. During course of hearing following orders were passed on

Gyan Chand
2025.05.31 13:29
I attest to the accuracy and
integrity of this document

23.01.2025:-

> " xxx xxx xxx
> *2. Heard.*
> *3. It is, inter alia, contended by learned counsel for the petitioner that the petitioner after having been nominated in case FIR (Annexure P-1) was never served with any notice, warrants or proclamation but has been wrongly declared as proclaimed person by the learned Magistrate vide order dated 16.10.2024 (supra). He contends that the petitioner is not having any criminal antecedents and has placed on record copy of the proclamation dated 11.07.2024 issued by the concerned Court requiring the presence of the petitioner in Court for 19.09.2024, the same is taken on record and marked as Annexure'A'. He has also placed on record the statement of the executing official dated 12.09.2024, the same is taken on record and marked as Annexure 'B', to mention that the house of the petitioner was found locked and the proclamation was affixed allegedly on 12.09.2024. As per the order dated 19.09.2024 (Annexure P-7), the statement of executing official was recorded and the case was adjourned for 16.10.2024 for awaiting the presence of the petitioner. He contends that there was no notice or proclamation for the petitioner to appear before the learned Trial Court on 16.10.2024. He contends that the impugned order had been passed in violation of the provisions of Section 82 Cr. PC. Hence, the present petition.*
> *4. Notice of motion, returnable for 27.02.2025.*
> *5. On the asking of the Court, Mr. Ankit Grewal, DAG, Punjab, who is present in Court, accepts notice and does not dispute the factual matrix of the case. He seeks time to file the status report/reply in the matter.*
> *6. In the meanwhile, operation of the impugned order dated 16.10.2024 (supra) declaring the petitioner as proclaimed person in case FIR (Annexure P-1) shall remain stayed till the next date of hearing."*

3. Learned counsel for the petitioner submits that during the pendency of the aforesaid petition, petitioner has filed CRM-M-15910-2025 seeking anticipatory bail in present FIR (Annexure P-1) and vide order dated 08.04.2025 petitioner was granted interim bail and petitioner has

Gyan Chand
2025.05.31 13:29
I attest to the accuracy and
integrity of this document

joined the proceedings and the said interim bail has been confirmed vide order dated 27.05.2025.

4. Learned State counsel assisted by Inspector Kikar Singh Investigating Officer, has not disputed the factum of the interim bail being granted to the petitioner on 08.04.2025 and his joining the proceedings in the trial Court and also the fact of confirmation of bail thereof. However, he submits that petitioner has violated the provisions of Section 82 Cr.P.C.

5. After considering the rival contentions and perusing the record, it transpires that vide order dated 16.10.2024 (Annexure P-8) passed by learned Sub Divisional Judicial Magistrate, Jagraon, in case CRM-221-2024, 'State vs. Aslam Noor and another', petitioner was declared proclaimed person. In the meanwhile, petitioner had filed CRM-M-15910-2025 seeking anticipatory bail in present FIR (Annexure P-1) and vide order dated 08.04.2025 petitioner was granted interim bail and he has joined the proceedings before the learned trial Court and the said interim bail has been confirmed vide order dated 27.05.2025. Further, from the perusal of record, it transpires that while issuing proclamation under Section 82 of Cr.P.C, statutory provisions laid therein have not been followed meticulously as the executing official had not publicly read the proclamation as was required under the Provisions of the Section 82 Cr.P.C, therefore, on this score also the impugned order declaring the petitioner as proclaimed person in this case is not sustainable in the eyes of law. Even otherwise, the petitioner has already joined the proceedings and appeared in the trial Court to face the trial, therefore, the impugned order is liable to be set-aside.

Gyan Chand
2025.05.31 13:29
I attest to the accuracy and
integrity of this document

6. In these circumstances, the present petition is allowed, the impugned order dated 16.10.2024 (Annexure P-8) passed by learned Sub Divisional Judicial Magistrate, Jagraon, in case CRM-221-2024, *'State vs. Aslam Noor and another',* whereby the petitioner was declared proclaimed person is hereby set aside.

7. Accordingly, the petitioner stands disposed of.

(SANJIV BERRY)
JUDGE

27.05.2025
Gyan

i) Whether speaking/reasoned? Yes
ii) Whether reportable? Yes

Gyan Chand
2025.05.31 13:29
I attest to the accuracy and
integrity of this document