



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

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CRM-M-9593-2025 (O&M)

Date of decision: 17.03.2025

Bakshish Singh @ Sonu**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Munish Puri, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-10762-2025

Allowed as prayed for, subject to all just exceptions.

Documents are taken on record.

2. CRM-M-9593-2025 (O&M)

The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of order dated 01.09.2016 (Annexure P-4), passed by the Court of learned Judicial Magistrate First Class, Amritsar in case titled as ***State vs. Bakshish Singh and others***, arising out of FIR No. 172 dated 03.12.2013, registered under Section 61 of the Excise Act at Police Station C-Division, Amritsar City, whereby the petitioner had been declared a proclaimed person.

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. He was granted concession of regular bail and was regularly appearing before the learned trial Court.



However, he absented from the Court proceedings on 05.03.2015 resulting into cancellation of his bail. Thereafter, due to non-communication with his counsel, he could not get the further dates of the case and ultimately he had been declared a proclaimed person. It is further argued that the petitioner had been declared a proclaimed person 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. *Per contra*, learned State counsel has argued that there is no infirmity or illegality in the impugned order as the petitioner had intentionally avoided his appearance before the learned trial Court. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties 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 of Cr.P.C. as against the petitioner till the date of declaring him a proclaimed person, I am of the considered opinion that the impugned order dated 01.09.2016 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 the learned trial Court had ordered for issuance of proclamation against the petitioner for 02.08.2016. When the case was taken up on 02.08.2016, the proclamation was received back executed but the case was adjourned to



01.09.2016 as the mandatory period of 30 days had not elapsed. However, while adjourning the case to 01.09.2016, the learned trial Court failed to consider the fact that it could not have extended the time by simply adjourning the case as a fresh proclamation was required to be published once the period between issuance of publication of proclamation and the specified period of hearing was less than 30 days. Reference in this context can be made to ***Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166.***

8. Further, a perusal of order dated 02.08.2016 reveals that the proclamation was executed on 27.07.2016 requiring the petitioner to cause his appearance before the learned trial Court on 02.08.2016, which means that the petitioner was not granted mandatory period of 30 days to cause his appearance before the Court concerned. Hence, the same was in clear violation of the provisions of Section 82(1) Cr.P.C., as per which, a specified time of not less than 30 days is required to be given to the accused from the date of publishing such proclamation which is mandatory in nature. Reliance in this regard can be placed upon ***Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826*** and ***Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339.***

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 01.09.2016 (Annexure P-4), passed by the Court of learned Judicial Magistrate First Class, Amritsar in case titled as ***State vs. Bakshish Singh and others***, arising out of FIR No. 172 dated 03.12.2013, registered under Section 61 of the Excise Act at Police Station C-Division, Amritsar, whereby the petitioner had been declared a

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proclaimed person, is quashed with all consequential proceedings arising therefrom. The petitioner is directed to surrender before the learned trial Court within a period of 15 days from today and on doing so, the learned trial Court shall release him on bail, subject to his furnishing fresh personal/surety bonds to its satisfaction.

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

11. It is made clear that in case the petitioner fails to appear before the learned trial Court within the stipulated time, this petition shall be deemed to be dismissed.

12. However, this relief shall be subject to payment of cost of Rs. 10,000/-, to be deposited by the petitioner with the District Legal Services Authority, Amritsar.

17.03.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No