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

**CRM-M-8914-2025
Reserved on 18.08.2025
Pronounced on 09.09.2025**

HARUN

..... PETITIONER

VERSUS

STATE OF HARYANA

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Saleem Ahmed, Advocate
for the petitioner.

Mr. Ved Parkash, Sr. DAG, Haryana.

SURYA PARTAP SINGH. J.

1. By invoking the inherent jurisdiction vested in this Court by virtue of Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred as “BNSS”, the present petition has been filed by the petitioner for quashing of order dated 07.07.2018, passed by learned Judicial Magistrate, 1st Class, Hansi, hereinafter being referred to as “trial Court” only. In the present petition it has been alleged by the petitioner that without adopting proper procedure for declaring him a proclaimed person the impugned order has been passed and that the same is not sustainable in the eyes of law.

2. The above mentioned order has been passed in the backdrop of a fact that in Police Station Bass, District Hisar, one FIR i.e. FIR No.11 dated 25.12.2016 has been lodged. The above mentioned FIR has been lodged for the



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commission of offence punishable under Section 3 & 4(1) of Haryana Gauvansh Sanrakshan and Gausamvardhan Act 2015. It is the case of the prosecution that the above mentioned FIR came into being when a vehicle loaded with cows was intercepted by the members of Gauvansh Sanrakshan Dal. As per prosecution when the members of Gauvansh Sanrakshan Dal arrived at the spot, where the cows were being unloaded from a truck, the cow smugglers fled from the spot and the cows tied with rope at their mouth and legs were found inside the vehicle. Accordingly, the police was informed, which arrived on the spot seized the vehicle as well as cows, registered the FIR and initiated investigation. According to prosecution, during the course of investigation, it was revealed that one of the accused involved in the commission of above mentioned crime was Harun @ Harif son of Suleman. As per prosecution when despite efforts bailable warrants and non-bailable warrants, the petitioner could not be arrested by virtue of order dated 07.07.2018, he was declared a proclaimed offender.

3. Aggrieved of the above mentioned order of learned trial Court, the present petition has been filed on the ground that the petitioner has been falsely implicated in the present case, as his name does not figures in the FIR and he has been implicated in the present case only on the basis of disclosure statement suffered by his co-accused. According to petitioner except the above mentioned evidence, which is not legally admissible, there is no evidence against the petitioner.

4. In addition to above, the petitioner has also alleged that firstly the proper procedure for declaring him a proclaimed person was not followed by



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the learned trial Court and secondly the proclamation has been issued in a wrong name, as instead of Harun it has been issued in the name of Harif.

5. Heard.

6. It has been contended on behalf of petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime and that without any evidence his arrest is being sought by the police. According to learned counsel for the petitioner *firstly*, the procedure adopted by the learned trial Court for declaring the petitioner as proclaimed person is defective and *secondly* the proclamation has been issued in a wrong name and therefore, the impugned order is not sustainable in the eyes of law and deserves to be set aside.

7. The prosecution which has filed a detailed reply has controverted the above mentioned argument. It has been contended by learned State counsel that the petitioner is trying to draw benefit of technicalities of law but this fact cannot be ignored that he has been evading his arrest by law enforcement agency, despite the fact that there is ample evidence to prove his involvement in the commission of crime. As per learned State counsel the act and conduct of the petitioner, who has been successfully evading arrest for such a long time in itself speaks in volumes about his involvement in the commission of crime.

8. The record has been perused carefully.

9. In the present case at the very outset, it is relevant to mention that Section 82(2) Code of Criminal Procedure lays down that following steps are necessary to be taken before declaring a person to be a proclaimed person:-

(2) The proclamation shall be published as follows:-

(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;



(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

10. With regard to mandatory nature of above mentioned procedure, it has been repeatedly observed by this Court, that the compliance of above mentioned provisions of Section 82(2) of Cr.P.C. is mandatory in nature. It has also been held that in case the above process is not adopted in letter and spirit, the order of declaring a person to be a proclaimed offender/proclaimed person is defective.

11. In this regard in the case of ***Tirlok Chand Vs. State of Haryana 2023(2) Law Herald 1545***, this High Court observed that if a proclamation is issued for appearance of an accused on a fixed date before the Court, and on that date he is not declared proclaimed person, for subsequent date fresh proclamation should be issued. Similarly in the cases of ***Jarnail Singh v. State of Punjab & Anr. in CRM-M-27944 of 2024*** and ***Gagandeep Singh v. State of Punjab in CRM-M-50704-2024***, it has been observed that if a proclamation is not read at a conspicuous place of the town or village in which such person ordinarily resides, as prescribed under Section 82 (2) (i) (a), the order declaring the above said person to be a proclaimed person/proclaimed offender is defective and not sustainable in the eyes of law. Similar view has been taken by



this High Court in the cases of *Pal Singh Santa Singh v. State AIR 1955 Punjab 18* and *Tajinder Singh v. State of Punjab in CRM-M-21736-2024*.

12. In the backdrop of above mentioned legal proposition, if the facts and circumstances of the present case are analyzed, it transpires that in the present case the learned Judicial Magistrate 1st Class, Hansi issued a proclamation in the name of four accused i.e. Tahir, Hamid, Munna and Harif, on 22.05.2018 for 05.06.2018. The above mentioned order, available on record as Annexure P-5, shows that the period provided to the accused for appearance before the Court was less than 30 days from the date of affixation of proclamation.

13. It is further to note that on 05.06.2018, when executing Constable appeared before the learned Trial Court and got his statement recorded, the learned trial Court adjourned the case to 07.07.2018 on the pretext that mandatory period of 30 days from the date of affixation of proclamation had not elapsed. On next date, i.e. 07.07.2018, on the basis of proclamation issued by virtue of order dated 22.05.2018, (for 05.06.2018) the above named four persons were declared proclaimed persons.

14. The above discussed chronology of events pertaining to instant case makes it abundantly clear that when the proclamation was issued and affixed 30 days time was not afforded to the accused to appear before the Court. In fact on 05.06.2018 the learned trial Court was duty bound to issue fresh proclamation for another date as on the basis of proclamation issued for appearance on 05.06.2018, the petitioner could not have been declared proclaimed person on 07.07.2018. In fact that above mentioned practice



adopted by the learned trial Court was in clear violation of the laid down procedure.

15. The another relevant factor in the present case is that it has been claimed by the petitioner that his name is Harun but the proclamation has been issued in the name of Harif. This is another defect in the impugned order as the proclamation has been issued in the name of a wrong person.

16. Taking into consideration the cumulative effect of above discussed lapses committed by the learned trial Court it is hereby held that the order dated 07.07.2018, whereby the petitioner has been declared proclaimed offender is not sustainable in the eyes of law and the same is defective. Hence, by accepting the present petition, the order dated 07.07.2018 is hereby set aside.

17. The petitioner is directed to appear before the learned trial Court and the learned trial Court is directed to proceed with the case in accordance with law.

(SURYA PARTAP SINGH)
JUDGE

09.09.2025
vipin

Whether speaking/reasoned	:	Yes
Whether Reportable	:	No