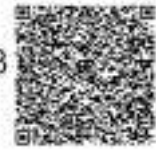


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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-12959-2025 (O&M)
Date of decision: 10.12.2025

Jyoti Jain**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Pardeep Kumar, Advocate
for the applicant-petitioner.

MANISHA BATRA, J. (Oral)**1. CRM-47930-2025**

Allowed as prayed for.

Documents are taken on record as Annexure P-5 (*Colly.*).

2. CRM-M-12959-2025 (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 15.09.2012 (Annexure P-3), passed by the Court of learned Additional Chief Judicial Magistrate, Ropar in case arising out of FIR No. 53 dated 19.04.2010, registered under Sections 452, 323 and 34 of IPC at Police Station Morinda, District Rupnagar, whereby the petitioner had been declared a proclaimed absconder.

3. It is argued by learned counsel for the petitioner that she has been falsely implicated in this case, which has been got registered by her husband Nischal Jain. She was granted concession of pre-arrest bail, vide order dated 17.07.2010. However, the same was cancelled due to her non-appearance

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before the learned trial Court. Thereafter, proceedings under Section 82 of Cr.P.C. were initiated against her on 23.04.2012. Due to distress in her life, the petitioner had left India and moved to United Kingdom and could not return back due to the reasons beyond her control. She was never served with any notice/warrants at her ordinary place of residence issued by the learned trial Court. Even otherwise, the petitioner had been declared a proclaimed absconder without following the proper procedure prescribed under Section 82 of Cr.P.C. The petitioner is ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

4. Notice of motion.

5. Ms. Ruchika Sabherwal, Sr. DAG, Punjab, who has advance notice of the petition and is ready to argue the matter, has submitted that there is no infirmity in the impugned order and the petitioner had rightly been declared a proclaimed absconder as she was running away from the process of Court. It is, thus, urged that the petition is liable to be dismissed.

6. This Court has heard the rival submissions.

7. 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 absconder, this Court is of the considered opinion that the impugned order dated 15.09.2015 suffers from some illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

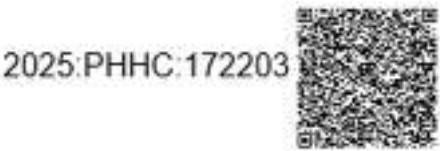
8. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on

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23.04.2012, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against her for 30.05.2012. Fresh proclamation was issued on 30.05.2012 for 23.07.2012. The same was executed on 20.06.2012 and thereafter, the petitioner was declared a proclaimed absconder on 15.09.2012. However, a perusal of order dated 23.04.2012 itself reveals that the learned trial Court was informed by the complainant that the petitioner had been residing abroad but no efforts whatsoever were made by the Court concerned to know about the address of the petitioner in abroad, where the process could be sent to her. No letter to Ministry of External Affairs qua service of notice/warrants/proclamation against the petitioner is shown to have been written by the trial Court. As such, it can reasonably be presumed that the process never reached the petitioner and hence, she had no occasion to conceal herself. As such, the action of the trial Court by switching to the proclamation proceedings under Section 82 Cr.P.C. can itself be stated to be bad in the eyes of law. Reliance in this context can be placed upon ***Manjit Kaur vs. State of Punjab : 2013 SCC Online (P&H) 8663.***

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 15.09.2012 (Annexure P-3), passed by the Court of learned Additional Chief Judicial Magistrate, Ropar in case arising out of FIR No. 53 dated 19.04.2010, registered under Sections 452, 323 and 34 of IPC at Police Station Morinda, District Rupnagar, whereby the petitioner had been declared a proclaimed absconder, is quashed with all consequential proceedings arising therefrom.



10. Keeping in view the fact that the petitioner is ready to join the Court proceedings which would obviously help in speedy conclusion of trial qua him, she is directed to surrender before the learned trial Court within a period of 06 weeks from today and on doing so, the learned trial Court shall release her on bail, subject to her furnishing fresh personal/surety bonds to its satisfaction.

11. Till the appearance of the petitioner before the learned trial Court, her arrest shall remain stayed.

12. 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.

10.12.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>