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

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CRM-M-12502-2025 (O&M)

Date of decision: 06.03.2025

Sourav Panchal @ Saurabh Panchal**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Navjit Singh, Advocate
for the petitioner.

Mr. Apoorv Garg, Senior DAG, Haryana.

MANISHA BATRA, J. (Oral)

1. 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 20.05.2024 (Annexure P-6), passed by the Court of learned Additional Sessions Judge, Ambala in case titled as ***State vs. Ajay alias Sonu etc.***, arising out of FIR No. 0117 dated 08.03.2023, registered under Sections 21 and 27(a) of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Parao Ambala Cantt., District Ambala, whereby the petitioner had been declared a proclaimed offender.

2. 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 on regular bail and was regularly appearing before the learned trial Court. However, on 18.01.2024, he could not appear before the Court due to his bad health, resulting into cancellation of his bail and issuance of non-bailable warrants

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against him for 20.03.2024. It is argued that the non-bailable warrants issued by the learned trial Court were not served upon the petitioner and he had been declared a proclaimed offender without following the proper procedure prescribed under Section 82 of Cr.P.C. He is ready to join the proceedings before the learned trial Court. Hence, it is urged that the impugned order is liable to be set aside.

3. *Per contra*, learned Senior Deputy Advocate General, Haryana has argued that the petitioner was having knowledge about the pendency of the trial and had intentionally avoided his appearance before the learned trial Court. Therefore, he had been rightly declared a proclaimed offender. Hence, it is urged that the petition is liable to be dismissed.

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

5. 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 offender, I am of the considered opinion that the impugned order dated 20.05.2024 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

6. 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 20.03.2024, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against him for 08.05.2024. A bare perusal of this order shows

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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, could not 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 CrI. J. 2561.***

7. Further, a perusal of order dated 08.05.2024 reveals that the proclamation was executed only on 19.04.2024. However, since the mandatory period of 30 days had not elapsed by then, the case was adjourned to 20.05.2024 awaiting the presence of the petitioner. However, while adjourning the case to 20.05.2024, 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. 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 20.05.2024 (Annexure P-6), passed by the Court of learned Additional Sessions Judge, Ambala in case titled as ***State vs. Ajay alias Sonu etc.,*** arising out of FIR No. 0117 dated 08.03.2023, registered under Sections 21 and 27(a) of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Parao Ambala Cantt., District Ambala, whereby the petitioner had been declared a proclaimed offender, is quashed with all consequential proceedings arising therefrom.

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9. 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.

10. 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.

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

12. 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.

06.03.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No