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

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CRM-M-18776-2025 (O&M)

Date of decision: 07.05.2025

Shubhdeep Singh Grewal**...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Anil Shukla, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-17192-2025

Allowed as prayed for.

Documents are taken on record.

2. CRM-M-18776-2025 (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 18.04.2011 (Annexure P-1), passed by the Court of learned Judicial Magistrate First Class, Jagraon in case titled as ***State vs. Sukhwinder Singh***, arising out of FIR No. 195 dated 08.11.2007, registered under Sections 341, 323, 324, 148 and 149 of IPC at Police Station Raikot, District Ludhiana, whereby the petitioner had been declared a proclaimed offender.

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. It is a case of version and cross

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version. The accused persons implicated in cross version, which was registered on the statement of the present petitioner, have been acquitted. It is further argued that *challan* in the aforesaid FIR was presented against the co-accused but the petitioner was kept in Column No. 2. However, on an application moved by the public prosecutor, non-bailable warrants were issued against the petitioner by the Court concerned by observing that he was wrongly kept in Column No. 2 and he was ultimately declared a proclaimed offender. The accused, who faced the full length trial, have been acquitted by the learned trial Court, vide judgment dated 05.07.2011. However, the petitioner could not appear before the Court as he was never served with any notice/warrants issued by the learned trial Court. More so, the petitioner had been declared a proclaimed offender 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 Senior Assistant Advocate General, Punjab has resisted the petition by submitting that there is no infirmity in the impugned order and the petitioner has rightly been declared a proclaimed offender as he was running away from the process of Court. It is, thus, 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

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proclaimed offender, I am of the considered opinion that the impugned order dated 18.04.2011 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 on 10.02.2011, 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 18.03.2011. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has not recorded its proper satisfaction that the petitioner had absconded or was concealing himself so that the warrant of arrest, previously issued, cannot 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 CrL J. 2561.***

8. Further, a perusal of the impugned order itself would reveal that the proclamation was executed on 05.03.2011, requiring the petitioner to cause his appearance before the learned trial Court on 08.03.2011, which means that the petitioner was not granted mandatory period of 30 days to cause his appearance before the learned trial Court. 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.***

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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 18.04.2011 (Annexure P-1), passed by the Court of learned Judicial Magistrate First Class, Jagraon in case titled as ***State vs. Sukhwinder Singh***, arising out of FIR No. 195 dated 08.11.2007, registered under Sections 341, 323, 324, 148 and 149 of IPC at Police Station Raikot, District Ludhiana, whereby the petitioner had been declared a proclaimed offender, is quashed with all consequential proceedings arising therefrom.

10. 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 483 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.

11. 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.

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

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13. 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.

07.05.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No