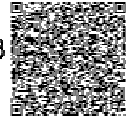


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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

136

CRM-M-17220-2025 (O&M)

Date of decision: 07.05.2025

Ajaypal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sumeet Puri, Advocate
for the petitioner. (Through VC)

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-14716-2025

Allowed as prayed for.

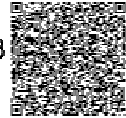
Documents are taken on record.

2. CRM-M-17220-2025 (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 23.12.2024 (Annexure P-4), passed by the Court of learned Sub Divisional Judicial Magistrate, Phul in case titled as ***State vs. Jagga Singh***, arising out of FIR No. 200 dated 08.10.2023, registered under Sections 307, 324, 506, 148 and 149 of IPC at Police Station City Rampura, District Bathinda, 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 not aware about

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registration of aforementioned FIR against him. He had left for Canada in October, 2023. He 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. He is ready to appear before the learned trial Court and join the proceedings. Hence, it is urged that the impugned order is liable to be set aside.

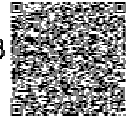
4. *Per contra*, learned Assistant Advocate General, Punjab has resisted the petition by submitting that there is no infirmity in the impugned order and the petitioner has rightly been declared a proclaimed person as he was running away from the process of Court. It is, thus, urged that the petition 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 proclaimed offender, I am of the considered opinion that the impugned order dated 23.12.2024 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 30.10.2024, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of

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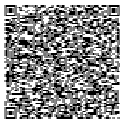


proclamation against him for 21.12.2024. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has not recorded its proper satisfaction that the petitioner had absconded or was concealing himself so that the warrant of arrest, previously issued, 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. A perusal of the record also shows that the petitioner has taken a plea that he had left for Canada in October, 2024 and came back to India in December, 2024 only. However, there is nothing on record to show any 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 him. 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, he had no occasion to conceal himself. 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 23.12.2024 (Annexure P-4), passed by the Court of learned Sub Divisional Judicial Magistrate, Phul in case titled as ***State vs. Jagga Singh***, arising out of FIR No. 200 dated

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08.10.2023, registered under Sections 307, 324, 506, 148 and 149 of IPC at Police Station City Rampura, District Bathinda, whereby the petitioner had been declared a proclaimed person, 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.

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