



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

292

CRM-M-19482-2025

Date of Decision : 28.10.2025

PARDEEP KUMAR

...Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Rajeev K. Kapila, Advocate
for the petitioner.

Mr. Kamalpreet Bawa, DAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner, a co-accused in case FIR No. 128 dated 24.05.2014 registered against him for commission of offences punishable u/s 323, 451, 148, 149 of IPC at Police Station Tanda, District Hoshiarpur, has prayed for quashing of order dated 14.10.2021 (Annexure P-5) passed by the learned Judicial Magistrate Ist Class, Dasuya, vide which he was declared "*Proclaimed Person*".

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He was granted the concession of bail by the learned trial Court. During pendency of the trial, petitioner went abroad to earn his livelihood, as a consequence of which he counsel not appear before the trial Court and on 14.10.2020, his bail was cancelled, bail bonds/surety bonds were also cancelled and forfeited to the State. His presence was sought to be procured through non-bailable warrants. On 06.09.2021, on the NBWs, it was reported that petitioner has gone abroad but despite that



proclamation was issued for 26.02.2020. The same remained unexecuted as after that Covid-19 had set in. On 18.02.2021, noticing that the statutory period had not lapsed, the case was kept for 25.03.2021. It was only on 14.10.2021, the learned trial Court recorded statement of serving Constable and declared the petitioner as “*Proclaimed Person*”.

3. Learned counsel for the petitioner has raised two unfold submissions:, Firstly, that after receiving the report that petitioner has gone abroad, learned Magistrate should have procured the presence of petitioner in accordance with provisions of Section 105 Cr.P.C. (now 110 BNSS). The procedure so prescribed under the aforesaid provision was not adhered to/complied with by the learned Magistrate.

Secondly, as per settled proposition of law, period of 30 days from the issuance of publication of proclamation is required to be given to the accused and that in case the Court adjourns the matter such adjournment beyond the 30 days cannot be treated as compliance of requisite provisions.

In support of his contentions, learned counsel places reliance upon following judgments:-

1. Ashok Kumar vs. State of Haryana and another 2013(4) RCR (Criminal) 550

2. CRM-M-40897-2019 titled as Prit Pal Singh vs. State of Punjab and others, decided on 03.02.2020

4. Heard. Documents on record perused.

5. Before proceeding further, let us carefully go through Section 105 Cr.P.C., which reads as under:-



“105. Reciprocal arrangements regarding processes.

(1) *Where a Court in the territories to which this Code extends (hereafter in this section referred to as the said territories) desires that*

(a) *a summons to an accused person, or*

(b) *a warrant for the arrest of an accused person, or*

(c) *a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or*

(d) *a search-warrant,*

[issued by it shall be served or executed at any place, -

(i) *xxxxxxxx*

(ii) *in any country of place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation to criminal matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and sent to such authority for transmission, as the Central Government may, by notification, specify in this behalf;]*

(2) *Where a Court in the said territories has received for service or execution -*

(a) *a summons to an accused person, or*

(b) *a warrant for the arrest of an accused person, or*

(c) *a summons to any person requiring him to attend and produce a document or other thin or to product it, or*

(d) *a search-warrant,*

[issued by -



(i) a Court in any State or are in India outside the said territories;

(ii) a Court, Judge or Magistrate in a contracting State, it shall cause the same to be served or executed] as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where -

(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by Sections 80 and 81;

(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by Section 101 :

[Provided that in a case where a summons or search warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall be forwarded to the Court issuing the summons or search warrant through such authority as the Central Government may, by notification, specify in this behalf.]”

In the case in hand, admittedly, as per report on NBW, it had come to notice of trial Court that the petitioner has left for foreign land. In this eventuality, trial Court should have adhered to the procedure so prescribed under Section 105 (1)(ii) Cr.P.C., rather learned trial Court presumed that petitioner is deliberately not appearing and thus, proclamation proceedings were initiated.

Secondly, a bare perusal of copies of interim orders reveal that no repeated warrants were issued to procure the presence of the petitioner. Further, perusal of order dated 18.02.2021 also reveals that the learned Magistrate was conscious of the fact that period of 30 days from the date when the publication



of proclamation was effected by the Executing Constable and when the accused was directed to appear before the Court, had not lapsed, therefore, the learned Magistrate adjourned the matter for 25.03.2021.

While interpreting, the provision of Section 82 (1) Cr.P.C., this Court in *Ashok Kumar vs. State of Haryana and another 2013(4) RCR (Criminal) 550*, held that a period of 30 days is required to be given to the accused and that even in case, the Court adjourns the matter subsequently, such adjournment beyond 30 days cannot be treated as compliance of requisite provisions.

Similar proposition of law was laid down in *Prit Pal Singh vs. State of Punjab and others, CRM-M-40897-2019, decided on 03.02.2020*.

In view of the referred judgments, in the present case as well, since the period of 30 days from the date when the proclamation was effected and when the accused was directed to be present in the Court on 25.03.2021, had not lapsed, the matter was adjourned to subsequent date. This adjournment, would not cure the initial defect.

For want of compliance of the procedure so mentioned in Code of Criminal Procedure, proclamation order dated 14.10.2021 (Annexure P-5) is hereby set aside. In view of the prayer made by learned counsel, coupled with the fact that the petitioner is ready and willing to return to India and to surrender before the learned trial Court/Illaq Magistrate concerned, and that, the underlying object behind declaring any person a "Proclaimed Person/Offender" is to secure his presence for facing trial, this Court deems it appropriate to grant an opportunity to the petitioner to surrender before the learned trial Court/Illaq Magistrate concerned within a period of 15 days from today i.e. till 11.11.2025.



The arrest of petitioner shall remain stayed only up to 11.11.2025 and he shall not be arrested at the Airport concerned, upon his arrival from abroad.

However, it is clarified that if the petitioner does not, comply with aforesaid direction and surrender before the learned trial Court/Illaqa Magistrate concerned upto the stipulated period, the protection regarding his arrest, as granted hereinabove, shall stand *ipso facto* vacated, without any further reference to this Court.

It is also clarified that the moment the petitioner surrenders, this order granting interim protection would cease to operate, and thereupon, the learned trial Court/Illaqa Magistrate concerned shall proceed further in accordance with law. No observations made hereinabove shall have any bearing on the merits of the bail application, which shall be decided, as per law.

6. Accordingly, the instant petition stands disposed of.

(AARADHNA SAWHNEY)
JUDGE

28.10.2025
Nisha Yadav

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No