



CRM-M-26168-2025 (O&M) -1-

131

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26168-2025 (O&M)

Date of decision 01.12.2025

SIMRANDEEP SINGH

..... PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Dhruv Sihag, Advocate
for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

Ms. Krishna Dayama, Sr. Panel Counsel
for Union of India (Through V.C.)

SURYA PARTAP SINGH. J.

1. By invoking the extra-ordinary jurisdiction vested in this Court by virtue of Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred to as “BNSS”, the present petition has been filed by the petitioner for quashing of order dated 02.01.2025, hereinafter being referred to as ‘impugned order’ passed in a case titled as ‘Simrandeep Singh vs. State of Punjab’. The above-mentioned case is arising out of Rapat No.9 dated 19.03.2020 under Section 3 Railway Property (Unlawful Possession) Act, Police Station R.P.F./Amritsar. By virtue of above-mentioned impugned order,

**CRM-M-26168-2025 (O&M) -2-**

the learned Chief Judicial Magistrate, Amritsar has declared the petitioner to be a proclaimed offender.

2. In nut-shell, the facts emerging from record are that the petitioner has been facing a prosecution for the commission of offence under Section 3 of Railway Property (Unlawful Possession) Act, hereinafter being referred to as 'RP (UP) Act', on a complaint filed by 'Railway Protection Force Amritsar'. In the above-mentioned case the petitioner was on bail but he failed to turn up before the learned trial Court and therefore, firstly, his bail was cancelled and bonds were forfeited to the state, and thereafter, when the presence of the petitioner could not be procured by way of warrant of arrest a proclamation was issued against the petitioner by virtue of order dated 03.10.2024. Although a proclamation against the petitioner was issued, but despite proclamation when the petitioner did not turn up before the Court, he was declared a proclaimed person by virtue of impugned order dated 02.01.2025.

3. Notice of motion.

4. Since advance notice has already been served upon the State, Mr. Eklavya Darshi, Deputy Advocate General, Punjab, accepts notice on behalf of respondent-State, and waives service.

5. Heard.

6. It has been contended on behalf of petitioner that the impugned order is patently illegal, perverse and unsustainable in view of the fact that the necessary conditions enshrined under Section 84 of BNSS, 2023 (erstwhile Section 82 Cr.PC.) has not been complied with. It has been contended by learned counsel for the petitioner that proclamation against the petitioner was ordered to be issued by virtue of order dated 03.10.2024 and that on that day the

**CRM-M-26168-2025 (O&M) -3-**

proclamation was issued for 24.11.2024 but the proclamation was affixed on 20.11.2024 and thereafter, without issuing fresh proclamation and without affording the mandatory period of 30 days, the petitioner has been declared a proclaimed person.

7. *Per contra*, the learned State counsel has contended that in the present case the petitioner is a person, who has misused the concession of bail. According to learned State counsel, the petitioner was very well aware of the fact that proceedings against him were going on in the Court of law, but instead of submitting himself to the Majesty of law the petitioner preferred to abscond, and that even today the petitioner has not surrendered before the learned trial Court and therefore, he is not entitled for any kind of sympathy from this Court.

8. The record has been perused carefully.

9. A perusal of record shows that in the present case the copies of zimni orders passed by the learned trial Court and the statement of Executing Constable have been placed on record by the petitioner. A perusal of above-mentioned orders goes to show that although the proclamation against the petitioner was issued on 03.10.2024 for 21.11.2024, but the above-mentioned proclamation was affixed by the Executing Constable only on 20.11.2024 and thus from the date of affixation of proclamation till the date fixed for appearance of the petitioner in the Court, 30 days time was not afforded to the petitioner. It is also relevant to mention here that on 21.11.2024, for which proclamation was issued, the petitioner was not declared a proclaimed offender in view of the fact that 30 days time for appearance of petitioner in the Court, from the date of affixation of proclamation, had not elapsed. However on 21.11.2024 instead of issuing a fresh proclamation, the learned trial Court

**CRM-M-26168-2025 (O&M) -4-**

simply adjourn the case and on the basis of proclamation, which was affixed on 20.11.2024 (for 21.11.2024), by virtue of impugned order dated 02.01.2025 petitioner has been declared a proclaimed offender.

10. As far as the proclamation issued against the petitioner is concerned at the very outset, it is pertinent to mention here that the procedure for proclamation has been prescribed under Section 84 of BNSS, 2023 (erstwhile Section 82 Cr.PC.). The above-mentioned statutory provisions prescribes that :-

(2) The proclamation shall be published as follows:-

- (i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;*
- (b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;*
- (c) a copy thereof shall be affixed to some conspicuous part of the Court-house;*
- (ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.*

11. A bare perusal of the above-mentioned order shows that the proclamation which was affixed on 20.11.2024 was for 21.11.2024, and from the date of affixation of proclamation till the date of appearance 30 days clear time was not afforded to the accused. With regard to above-mentioned situations, the principles of law have been laid down by this High Court in the case of Avtar Singh Vs. State of Punjab and Anr. in CRM-M-1866-2017, is relevant, wherein it has been held that “The above quoted provision makes it

**CRM-M-26168-2025 (O&M) -5-**

clear that through the proclamation made prior to declaration of a person as a proclaimed offender, he should be given not less than thirty days from the date of its proclamation to appear at a specified place and a specified time.

12. In the above-said case thirty days were not given to the petitioner to appear before the Trial Court as the proclamation was made on 13.05.2011 requiring him to appear before the Trial Court on 14.05.2011. Thus, it was held that the proclamation and the subsequent order dated 03.09.2011 declaring the petitioner to be a proclaimed offender, were not in conformity with the mandate of Section 82 (1) of the Code”.

13. Similarly in the case of Amandeep Singh vs. State of Punjab in CRM-M-26161-2024, it has been observed by this Court that “In view of provisions of Section 82(1) Cr.P.C., it is clear that the publication was effected on 9.2.2013 and the accused was directed to appear in the Court as per that publication on 6.3.2013 which period was less than 30 days. Therefore, it cannot be held that by passing the impugned order on 13.3.2013, the publication has been effected as per the provisions of Section 82 Cr.P.C. There was no order in the publication for the accused giving specified time and place to appear on 13.3.2013. Therefore, this order is not as per law and the same is set aside.”

14. In the present case while publication was effected on 13.05.2011 the accused was required to appear on 14.05.2011. With regard to above-mentioned situations, the principles of law have been laid down by this High Court in the case of in Ashok Kumar v. State of Haryana 2013(4) RCR (Criminal) 550 while interpreting the provision of Section 82(1) has held that a clear period of 30 days is required to be furnished to the accused and that even in case the Court subsequently adjourned the matter, such adjournment beyond



CRM-M-26168-2025 (O&M) -6-

30 days cannot be treated as compliance of provisions of Section 82(1) Cr.P.C.

The relevant extract from the cited judgment reads as follows:-

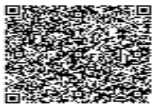
“4. In view of the above provisions of Section 82(1) Cr.P.C., it is clear that the publication was effected on 9.2.2013 and the accused was directed to appear in the Court as per that publication on 6.3.2013 which period was less than 30 days. Therefore, it cannot be held that by passing the impugned order on 13.3.2013, the publication has been effected as per the provisions of Section 82 Cr.P.C. There was no order in the publication for the accused giving specified time and place to appear on 13.3.2013. Therefore, this order is not as per law and the same is set aside.”

15. Similar view has been taken by this Court in the case of Sandeep Kaur vs. State of Punjab CRM-M-46830 of 2023.

16. If the factual matrix of the instant case is analyzed in the light of above under statutory provisions and the principles of law discussed above, it transpires that, the proceedings conducted by the learned trial Court while declaring the petitioner to be a proclaimed person were patently illegal contrary to the statutory provisions as well as settled principles of law. Thus, it is hereby held that the impugned order is illegal.

17. In view of above-mentioned observations, it is hereby held that the order dated 02.01.2025 is perverse and deserves to be set aside and the present petition deserves to be allowed. Resultantly, the present petition is hereby allowed and therefore, the impugned order is hereby quashed.

18. It is however made clear that by virtue of instant order only the impugned order dated 02.01.2025 has been quashed but this order will not have any implication on the order passed by the learned trial Court on 09.07.2024, whereby the bail of the petitioner was cancelled and bonds were forfeited to the



CRM-M-26168-2025 (O&M) -7-

state. Hence, the learned trial Court shall be at liberty to take appropriate action in view of above-mentioned order.

19. The present petition stands allowed accordingly.

(SURYA PARTAP SINGH)
JUDGE

01.12.2025
vipin

Whether speaking/reasoned	:	Yes
Whether Reportable	:	No