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

CRM-M-25452-2025

Date of Decision:- 28.05.2025

SANDEEP KAUR

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Sandeep Arora, Advocate for the petitioner.

Mr. Japjot Singh, AAG, Punjab.

AMARJOT BHATTI, J.

1. Petitioner Sandeep Kaur has filed instant petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for setting aside impugned order dated 06.08.2024 (Annexure P-5) passed by learned JMIC, Jalandhar vide which she has been declared as proclaimed offender in FIR No.30 dated 14.03.2023 under Sections 376 (3), 120-B of IPC and Section 6 of POCSO Act, 75 of Juvenile Justice (Care and Protection of Children) Act, 2015, later-on added Section 366-A of IPC and Sections 17 and 20 of POCSO Act, registered at Police Station Basti Bawa Khel, Jalandhar as the order on the face of it is illegal, void and without justification in contravention of the provisions of Section 82 Cr.P.C.

2. Learned counsel for the petitioner pointed out that in FIR No.30 dated 14.03.2023, Annexure P-1, (*supra*), SHO, Police Station Basti Baba Khel, filed application before learned Judicial Magistrate 1st Class for issuance of arrest warrants of present petitioner along with others. Vide order



dated 08.01.2024 (Annexure P-2). Accordingly , arrest warrants were issued for 19.01.2024. On 19.01.2024 (Annexure P-3), arrest warrants were received back unexecuted and finally proclamation proceedings were initiated for affixation of proclamation on 20.02.2024 and for appearance of accused persons on 20.03.2024. There is order dated 20.04.2024 (Annexure P-4) according to which since the proclamation was not effected as per the statutory provisions, therefore, qua present petitioner proclamation was again ordered to be issued for 13.05.2024 and for her appearance date was fixed for 13.06.2024. Finally by passing impugned order dated 06.08.2024 (Annexure P-5), petitioner was declared proclaimed offender.

3. Learned counsel for petitioner further referred to the report of ASI Parshotam Singh dated 13.06.2024 (Annexure P-6) as well as statement of ASI Parshotam Singh dated 06.07.2024 regarding the procedure followed by him for publication of said proclamation. The said publication was done on 13.06.2024. Even though as per the order (Annexure P-4), affixation was to be done on 13.05.2024 and the date for appearance was fixed for 13.06.2024. Learned counsel for petitioner pointed out that in this way no proper procedure was followed to effect proclamation as per provisions provided under Section 82 of Cr.P.C.

4. Learned counsel representing State confirmed the aforesaid factual position based on the orders passed by learned Judicial Magistrate First Class from time to time. Therefore, no status report is required.

5. I have considered the aforesaid factual position. In order to appreciate the aforesaid factual position, it will be appropriate to consider the provisions of Section 82 Cr.P.C. which runs as under:-



“82. Proclamation for person absconding. - (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(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.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this Section have been complied with, and that the proclamation was published on such day.

[(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under Sections 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459, or 460 of the Indian Penal



Code (45 of 1860), and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.]

[(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).]”

6. As per the aforesaid provisions, the Court is required to give 30 days’ time for appearance before the trial Court on the issuance of publication/affixation of proclamation at some conspicuous place. As per order dated 20.04.2024 (Annexure P-4) affixation of proclamation was to be done on 13.05.2024 and date for appearance was 13.06.2024. Impugned order dated 06.08.2024 indicates that proclamation was effected on 13.06.2024 the day which was fixed for awaiting appearance of the accused. Therefore, impugned order dated 06.08.2024 (Annexure P-5) passed by learned Judicial Magistrate 1st Class is not sustainable in the eyes of law. Accordingly, petition filed by petitioner is accepted and the impugned order dated 06.08.2024 (Annexure P-5) is set aside. Trial Court may proceed to procure the presence of petitioner as per law.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)
JUDGE

28.05.2025
snd

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No