



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

CRM-M-25951-2025 (O&M)

Date of Decision: 13.05.2025

MOSEEN ALIAS MOSIN

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sourabh Kandoi, Advocate for
Mr. Munfaid Khan, Advocate for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. The present petition has been filed under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking quashing of the order dated 06.06.2019 (Annexure P-5) passed by learned Additional Sessions Judge, Faridabad vide which the petitioner has been declared as proclaimed person in case bearing FIR No. 100 dated 04.03.2017 under Sections 279, 429, 307, 120-B of Indian Penal Code (hereinafter to be referred as 'IPC') and Sections 11-59-60 of Animal Cruelty Act, registered at Police Station 31, District Faridabad and all subsequent proceedings arising therefrom.

2. Learned counsel appearing for the petitioner *inter alia* contends petitioner was on regular bail and he was regularly appearing before the learned trial Court till 25.10.2018, however, on 25.12.2018 when the petitioner asked his counsel about the fate of his case, he stated that petitioner has been acquitted and now there is no further requirement for him to appear before the learned trial Court. It is further submitted that petitioner is from Baghpat, Uttar Pradesh and being illiterate, he is not aware of legal language. Thus, on account of miscommunication with the counsel of the petitioner, he failed to appear before the learned trial Court and later on came



CRM-M-25951-2025 (O&M)

-2-

to know about the order dated 06.06.2019 (Annexure P-5) passed by the trial Court, vide which he has been declared as proclaimed person. Learned counsel further contends that petitioner was declared as proclaimed person vide the impugned order without following the proper procedure and the impugned order is liable to be set aside on the ground that the mandate of Section 82(1) of Cr.P.C. has not been followed in its letter and spirit by the trial Court as the warrants of arrest was never served to the petitioner.

3. Per contra, learned State counsel supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, proclamation was issued to secure his presence.

4. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

5. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

6. A perusal of the impugned order reveals that the trial Court issued proclamation without recording reasons of its belief that the petitioner has absconded or is concealing himself. This Court in the judgment passed in

Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406;



CRM-M-25951-2025 (O&M)

-3-

2023 (2) Law Herald 1506 has held that the Court is first required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. In the judgment passed by this Court in ***Sonu Vs. State of Haryana 2021 (1) RCR (Crl.) 319***, it has been held that the conditions specified in Section 82 (2) Cr.P.C. for the publication of a proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation and proceedings subsequent thereto a nullity.

7. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court.

8. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 06.06.2019 (Annexures P-5) vide which the petitioner was declared proclaimed person, is hereby set aside along with all consequential proceedings arising therefrom. The petitioner is directed to apply for grant of bail before the Court concerned within two weeks from today.

9. If the petitioner fails to approach the Court concerned by filing the appropriate application seeking bail, the interim relief granted to the petitioner vide this order shall be deemed to be automatically vacated.

(HARPREET SINGH BRAR)
JUDGE

13.05.2025
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No