



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-26454-2025
Decided on : 15.05.2025

Sarabjit Singh . . . Petitioner

Versus

State of Punjab . . . Respondent(s)

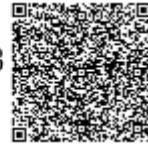
CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH
PRESENT: Mr. Inderjit Sharma, Advocate, Advocate for the petitioner.
Mr. Neeraj Madan, Sr. DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. Instant petition, under Section 528 of the BNSS, 2023, has been filed for quashing of the order dated 12.05.2012 (Not available on judicial file of learned trial Court SDJM, Ajnala, District Amritsar), whereby the petitioner has been declared as ‘proclaimed person’, on account of his non-appearance in the following FIR:-

FIR No.	Date	Section(s)	Police Station	District
0011	11.01.2011	420, 120-B IPC	Raja Sansi, Tehsil Ajnala	Amritsar

2. Learned counsel for the petitioner submits that the first difficulty faced by the petitioner arises from the fact that the order declaring him as a proclaimed offender/proclaimed person is not available on the Court file. This assertion finds support in the observations made by the learned Additional Sessions Judge, Amritsar, in the order dated 22.11.2024, while adjudicating the petitioner’s application for anticipatory bail. In paragraph No. 2 of the said order, the Court specifically recorded that no such record



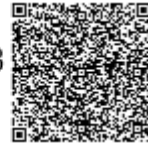
pertaining to the declaration of the petitioner as proclaimed offender is found available. For reference same is reproduced hereunder:

“2. Notice of the bail application was served upon the State through learned Additional PP attached to this Court alongwith copy of bail application, who received the same, appeared and contested the bail application on merits. Main file has been summoned which has been received from the record room. However, the proceedings in connection with order vide which applicant has been declared as proclaimed offender could not be received from the record room, as it was reported by the concerned record keeper that except the said file, there is no other paper found or consigned in the record room vide which applicant was declared as proclaimed offender. Today SI Tarsem Singgh has appeared and suffered statement that in this case challan against non applicant was presented before the ld. Trial Court, but present applicant-accused Sarabjit Singh was declared proclaimed offender vide order dated 12.05.2012. He further stated that applicant has not been arrested and as per their record, no other case has been registered against the applicant-accused.”

3. While giving aforementioned observation, learned Additional Sessions Judge, Amritsar observed that since petitioner has already been declared as Proclaimed offender/Proclaimed Person, application filed under Section 438 Cr.P.C. would not be maintainable and therefore, same was dismissed.

Subsequent thereto, similar plea was raised before this Court also through CRM-M-61186-2024 and same was also dismissed vide order dated 09.12.2024.

4. However, learned counsel further contends that the petitioner had already settled abroad, specifically in Oman, at the time of the registration of the FIR and, as such, had no knowledge regarding the initiation or pendency of any criminal proceedings against him. Counsel submits that this fact can be duly verified at a later stage from the petitioner's passport, wherein the relevant visa entries and travel history would provide



confirmation. Consequently, he could not have participated in the investigation or appeared before the concerned Court. It is submitted that the proceedings purportedly conducted under Section 82 Cr.P.C. were not in consonance with the mandatory procedure prescribed under law. As such, the order declaring the petitioner as a Proclaimed Offender/Proclaimed Person is vitiated and unsustainable in the eyes of law.

5. Learned counsel for the petitioner further submits that petitioner is inclined to join the process of law before learned Trial Court and undertakes to co-operate throughout the proceedings before the trial Court. Learned counsel further submits that the non-appearance of the petitioner before learned Trial Court was neither intentional nor a deliberate act, rather it was due to the reason explained and noticed hereinabove.

6. He further contends that, if one opportunity is afforded to the petitioner to appear by granting some protection from arrest, he undertakes that in all the future proceedings of the present case, he would never be absent from the Court, except by obtaining prior permission from the Court, and thus will fully cooperate in the Court proceedings for early completion of trial.

7. Notice of Motion

8. At this stage, learned State counsel is unable to dispute the factual position asserted by learned counsel for the petitioner, namely that the petitioner was residing in Oman at the time of the registration of the FIR. However, he defends the impugned order, declaring the petitioner proclaimed offender/proclaimed person.

9. After hearing learned counsel for the parties and perusing the contents of the petition, this Court is of the considered view that, without



delving into the merits of the controversy at this stage, it would be in the interest of justice and fairness to afford the petitioner one opportunity to appear before the concerned Court, so that proceedings may be initiated qua him in accordance with law.

10. In number of cases, wherein, accused stopped appearing in criminal cases, the Courts are compelled to declare accused as 'Proclaimed Person/Proclaimed Offender'. After examining the facts, this Court has formulated a uniform method to ensure the presence of accused before the concerned Court, to enable it to proceed further instead of delaying the proceedings by awaiting the presence of accused.

Intentional or unintentional default of the accused can be dealt with by examining the facts from case to case involved, and where it is realised that absence or prolonged absence of such accused is intentional to evade the process of law, he/she can be penalized examining the nature of crime in which he is facing the proceedings and thereupon by imposing some cost amount subject to his/her capacity to pay.

Primary object of every Court is only to examine the commission of crime in question before it *viz-a-viz* the person/accused, who is subjected to such proceedings, and if possible justice be imparted at the earliest without unnecessary delay. It is not expected that undue time would be devoted in securing the presence of absconded accused and also to waste energy by enforcing the special mechanism to arrest such accused.

Considering all such aspects, this Court in the case of ***Ashish Kumar Honda @ Ashish Handa Vs. State of Punjab, 2022 (4) RCR (criminal) 765; Law Finder Doc Id # 20238111*** considered similar plea of appearance, expressed at the instance of the accused, who failed to appear



before the Court at appropriate time, and observed that:

“paramount consideration of the Court is to secure presence of accused on each and every date for speeding up the trial for its final conclusion. Already Courts are flooded with so much litigation, resulting in slow pace of work, because of more than one reason. The required energy and manpower be used for expediting the proceedings of the Court, instead of running after the accused persons to get hold of them.”

Again, this Court has considered the aforementioned similar plea in case **Veena @ Veena Devi v. State of Punjab (CRM-M-2206-2025, decided on 16.01.2025.**

11. In totality of circumstances, I am of the view that the petitioner can be given one chance to appear before the trial Court, so that proceedings may restart and continue in smooth manner. Accordingly, plea of the petitioner is accepted. Impugned order dated 12.05.2012 is **set aside** to the extent of declaring the petitioner as ‘proclaimed person’, and he is directed to be released on bail, in the eventuality of surrender by him before the trial Court on or before 05.06.2025.

The petitioner shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would also submit specific undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

In view of the fact that the FIR pertains to the year 2011, this order shall be subject to the payment of costs amounting to Rs. 20,000/-, to be deposited by the petitioner in an Old Age Home located in the area, as may be identified and directed by the learned Trial Court. The Trial Court shall also specify the time frame within which such costs will be required to be deposited, but not more than two weeks, failing which this order would



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not be of any advantage to the petitioner.

12. With aforementioned terms, present petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

May 15, 2025
Rashmi

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*