

2025:PHHC:073225



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

**CRM M-26953 of 2025**

**Date of Decision: 26.05.2025**

Gulbag Singh @ Gola

... Petitioner

Versus

State of Punjab

... Respondent

**CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present : Mr. Harpal Singh Sidhu, Advocate, for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

**N.S.SHEKHAWAT, J. (Oral)**

1. The petitioner has filed the present petition under Section 528 of the NBSS of 2023 with a prayer to quash the order dated 04.01.2022 (Annexure P-2) passed by the Court of Additional Chief Judicial Magistrate, Amritsar, whereby, the petitioner has been declared as proclaimed person in a trial arising out of FIR No. 70 dated 07.03.2017 under Sections 379/411 of IPC registered at Police Station E Division, District Amritsar Commissionerate.

2. Learned counsel for the petitioner contends that a case arising out of FIR No. 70 dated 07.03.2017 under Sections 379/411 of IPC was registered at Police Station E Division, District Amritsar

Commissionerate against the present petitioner. After the registration of the FIR (Annexure P-1), the petitioner was granted the concession of regular bail on 15.07.2017. After completion of investigation, the *challan* was presented against him on 26.07.2017 and, thereafter, the petitioner had regularly appeared before the trial Court from 26.07.2017 to 17.03.2020. However, due to Covid-19 Pandemic, the petitioner could not appear before the trial Court and the non-bailable warrants were issued against the petitioner, however, the warrants were never served on the petitioner. Ultimately, vide order dated 26.10.2021, the Court of ACJM, Amritsar, observed that the petitioner/accused was intentionally concealing himself in order to avoid the execution of the warrants of arrest and he was ordered to be summoned through proclamation under Section 82 of Cr.P.C. for 20.12.2021. In compliance of the said order, the proclamation was duly effected and the serving official got his statement recorded before the trial Court on 20.12.2021. However, on 20.12.2021, the petitioner was not declared as proclaimed person and the case was adjourned to 04.01.2022 for awaiting the appearance of the petitioner/accused. On 04.01.2022, the Court of ACJM, Amritsar, passed the following order:-

*Present:-Sh.Jagdeep Kumar, Learned APP for the State.  
Accused Gulbagh Singh @ Gola absent.*

*Proclamation against accused Gulbagh Singh @ Gola has already been effected. Even, separate statements of serving official have already been recorded regarding due effecting of the proclamation and regarding movable or immovable property of the accused not being traceable. Today the case was fixed for awaiting appearance of the said accused. Neither said accused surrendered nor have been arrested by the police and produced in the Court. The statutory period of 30 days has already elapsed but the accused has failed to come present. Hence, accused Gulbagh Singh @ Gola is declared Proclaimed Person. Necessary intimation in this regard be sent to the SHO, concerned police station, Amritsar to record the said factum in the relevant register. Papers be attached with other papers of the relevant FIR.*

*Adjourned to 28.01.2022 for prosecution evidence under Section 299. Cr.P.C. Pws be summoned for date fixed.*

*(Jaapinder Singh)*

*ACJM/Asr./04.01.2022*

*UID No.PB0235.”*

3. Learned counsel for the petitioner contends that Section 82 of Cr.P.C. lays down the procedure for declaring an accused as proclaimed person/offender, when a person is absconding or concealing himself, so that the warrants may not be executed, the Court may order the publishing of a proclamation, requiring him to appear at a specified time and place. In case, the accused does not appear on the said date, he can be declared as proclaimed

offender/proclaimed person. In the present case, the proclamation was issued against the petitioner for appearance on 20.12.2021 and he did not appear on 20.12.2021, however, the case was again adjourned to 04.01.2022 and on 04.01.2022, the petitioner had been declared as proclaimed person. He submits that in the present case, no proclamation was issued, requiring the petitioner/accused to appear on 04.01.2022 and the entire procedure adopted by the Court was illegal and unsustainable.

4. On the other hand, learned State counsel submits that the petitioner had not appeared before the trial Court intentionally and he had been rightly declared as a proclaimed person in the present case.

5. I have heard learned counsel for the parties and perused the record.

6. Section 82 Cr.P.C. clearly provides that in case any Court has reasons to believe that any person against whom a warrant has been issued by it, has absconded or is concealing himself so that such warrants may not be executed, then such Court may publish a written proclamation requiring him to appear at a specified place at a specified time, not less than 30 days from the date of publishing such proclamation and a complete procedure for publication has been provided in Section 82 Cr.P.C. In fact, the procedure laid down by Section 82 Cr.P.C. is mandatory and it is necessary to issue

proclamation for the date, on which the accused has to be declared as a proclaimed person. In the present case, the proclamation was issued for appearance of the petitioner on 20.12.2021. However, the case was adjourned to 04.01.2022 for awaiting the presence of the present petitioner. No proclamation, requiring the petitioner to appear on 04.01.2022 was published and he was wrongly declared as proclaimed person.

7. Consequently, the impugned dated 04.01.2022 (Annexure P-2) passed by the Court of Additional Chief Judicial Magistrate, Amritsar and all subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

8. In the present case, the FIR was registered on 07.03.2017 and the petitioner was even granted the concession of regular bail on 15.07.2017. Thereafter, the matter remained pending before the trial Court. Thus, no purpose will be served by sending the petitioner behind the bars after such a long period. Consequently, the petitioner is permitted to surrender before the learned trial Court/Area Magistrate/Duty Magistrate within a period of two weeks from today and on his surrender, he shall be admitted to bail by the concerned Court on his furnishing bail bonds/surety bonds to the satisfaction of the concerned Court. The Court, which admits the petitioner to bail, shall also be at liberty to impose such reasonable conditions, as

provided by law. In case, the petitioner does not surrender within a period of two weeks from today, the present petition shall be deemed to be dismissed by this Court.

9. The petition is disposed off in above terms.

26.05.2025

(N.S.SHEKHAWAT)

amit rana

JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether reasoned/speaking | : | Yes/No |
| Whether reportable        | : | Yes/No |