



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-29716 of 2025 (O&M)

**Reserved On: 27.08.2025
Pronounced On: 28.08.2025**

Udheyraj Singh Grewal

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Yogesh Goel, Advocate
for the petitioner(s).

Mr. Eklavya Darshi, Deputy Advocate General,
Punjab, for the respondent.

Surya Partap Singh, J.

CRM-33725-2025

1. For the reasons stated in the application, the same is hereby allowed. The document i.e. the proclamation and its report dated 06.09.2024 are hereby taken on record.

CRM-M-29716-2025

2. By invoking the inherent jurisdiction vested in this Court by virtue of Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter referred to as “BNSS”, the present petition has been filed by the petitioner for quashing of orders dated 22.11.2023 and 16.10.2024 passed by the Court of learned Judicial Magistrate 1st Class, hereinafter referred to as “the trial Court ” only.

3. In brief, the background of the case is that the petitioner is

facing trial for the commission of offence punishable under Sections 380 and 511 of the Indian Penal Code, 1860, and Sections 25 and 27 of the Arms Act, 1959, vide FIR No. 240 dated 07.11.2022, Police Station Focal Point, District Ludhiana, before the learned trial Court. The petitioner was enlarged on bail, but during the course of trial on 22.11.2023, he could not appear before the learned trial Court, as a result of which, his bail was cancelled. In such a situation, the learned trial Court, in order to procure the presence of accused in the Court, issued his warrants of arrest.

4. After repeated efforts, when the learned trial Court failed to procure the presence of petitioner in the Court, by virtue of order 12.02.2024, it arrived at a conclusion that through ordinary process the presence of petitioner cannot be procured in the Court. In the above mentioned eventuality, the learned trial Court proceeded to issue proclamation against the petitioner. Once the proclamation was issued, the learned trial Court completed the process and declared the petitioner to be a proclaimed person.

5. In the present petition, order dated 22.11.2023, whereby bail of the petitioner was cancelled, and the order dated 16.10.2024, whereby the petitioner was declared proclaimed person, have been challenged.

6. Heard.

7. It has been contended by learned counsel for the petitioner that the petitioner had a genuine difficulty on 22.11.2023 which prevented him from appearing before the learned trial Court, giving rise to the order dated 22.11.2023. According to learned counsel for the petitioner, the petitioner's wife had suffered a severe paralytic attack in Canada and therefore, he left

India on 03.06.2023 to take care of his wife. As per learned counsel for the petitioner, in view of above mentioned unavoidable circumstances, he could not appear before the learned trial Court on the date fixed. The learned counsel for the petitioner has further contended that the order passed by the learned trial Court, whereby the bail of the petitioner has been cancelled and warrants of arrest has been issued, is liable to be set aside as the bail order of the petitioner was cancelled without serving any prior notice upon the petitioner.

8. With regard to order dated 16.10.2024, it has been argued by learned counsel for the petitioner that the above mentioned proclamation was not made in accordance with the laid down procedure, enshrined under Section 82 of the Code of Criminal Procedure. While referring to the contents of proclamation and the statement of Executing Constable, learned counsel for the petitioner has pointed out that necessary compliance of publicly reading the contents of proclamation at some conspicuous space has not been made in the present case. According to learned counsel for the petitioner, the order with regard to declaring of petitioner as proclaimed person on the basis of defective process is not sustainable and deserves to be set aside.

9. In this regard reliance has been placed by learned counsel for the petitioner on the principles of law laid down by this Court in ***Jarnail Singh v. State of Punjab and Others 2024 NCPHHC 125432***.

10. The learned State counsel has controverted the above mentioned arguments on the ground that the petitioner himself is guilty of being absent from the Court, but in the name of technicalities he is trying to

take undue advantage. According to learned State counsel, once the petitioner jumped the bail, he is not entitled to claim that the order with regard to cancellation of bail or declaring him a proclaimed person is defective.

11. The record has been perused carefully.

12. As far as the challenge to the order dated 22.11.2023 is concerned, a perusal of contents of the petition itself shows that it is an admission of the petitioner that on 22.11.2023, being in a foreign country, i.e. Canada, he was unable to appear before the learned trial Court. There is no plea of the petitioner that on 22.11.2023 he approached his learned counsel to move an application and sought exemption of his personal appearance.

13. In view of the above mentioned fact situation, once the petitioner was on bail and failed to appear before the learned trial Court, there was no option left with the learned trial Court but to procure the presence of petitioner by taking some coercive steps. For taking such coercive steps, cancellation of bail was a precondition. Hence, finding no defect in the above mentioned proceedings, taken up by the learned trial Court on 22.11.2023, the present petition has got no merit and qua above mentioned prayer, the same stands dismissed.

14. As far as the order dated 16.10.2024 is concerned, contents of the statement of Executing Constable, which was the foundation of the above mentioned order, is very much relevant. Constable Gagandeep Singh, CT 1673), in his statement recorded on 06.09.2024, stated before the learned trial Court that :-

“It is requested that one copy of proclamation issued by the Hon’ble Court was affixed outside house of Udhay Raj Singh Grewal and one copy of proclamation was affixed at public place. Once copy was pasted on the notice board of Hon’ble Court and one copy has been returned to Hon’ble Court after service.”

15. A bare perusal of the above-mentioned statement shows that the above named Executing Constable had nowhere stated before the learned trial Court that he had publicly read the contents of proclamation at some conspicuous place of the village/city, where the petitioner was residing. In this regard, the provisions of Section 84 of BNSS are relevant which prescribes that:-

“84. (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 which is made punishable with imprisonment of ten years or more, or imprisonment for life or with death under the Bharatiya Nyaya Sanhita, 2023 or under any other law for the time being in force, 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)."*

16. The above mentioned provisions as contained in BNSS makes it abundantly clear that it is one of the pre-requisite before declaring an accused to be a proclaimed offender/proclaimed person, that the contents of proclamation should be read at some conspicuous place in the vicinity of place of abode of the accused. A similar principle has been laid down in ***Jarnail Singh's case*** (*supra*). Since the above mentioned compliance has not been made in the present case, the order dated 16.10.2024, whereby the petitioner was declared proclaimed person, is not in accordance with law. Therefore, there is immediate need for inference in the order dated

16.10.2024, whereby the petitioner was declared proclaimed person. In view of above mentioned observation, the above said order deserves to be quashed. The same is hereby quashed, accordingly.

17. As a sequel to observations made in the foregoing paragraph, the present petition is hereby partly allowed. With regard to order dated 22.11.2023, the present petition stands dismissed. However, with regard to order dated 16.10.2024, the present petition stands allowed and the order dated 16.10.2024 stands quashed.

(Surya Partap Singh)
Judge

August 28, 2025
“DK”

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