



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

CRM-M-35526-2024 (O&M)

Date of Decision: 17.07.2025

SUMANDEEP SINGH

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arun Kumr Gupta, Advocate
for the petitioner.
Mr. Rishabh Singla, AAG Punjab.
Ms. Harjeet Kaur, Advocate
for the complainant.

HARPREET SINGH BRAR J. (Oral)

1. Present petition has been filed under Section 528 Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 seeking quashing of the order dated 17.11.2023 (Annexure P-2) passed by learned Sub Divisional Judicial Magistrate, Samrala, District Ludhiana, whereby the petitioner was declared as proclaimed person in case bearing FIR No. 103 dated 15.06.2020 registered under Sections 323, 324, 506, 148, 149 of Indian Penal Code (hereinafter to be referred as 'IPC') (Sections 325 and 201 of IPC added later on) at Police Station Samrala, District Ludhiana.

2. Mr. Arun Kumar Gupta, Advocate has filed his power of attorney on behalf on behalf of petitioner bearing endorsement of No-Objection from the previous counsel. Same is taken on record.

3. Learned counsel for the petitioner submits that petitioner was not aware regarding registration of FIR(supra) against him as he had gone to Dubai for his livelihood, due to which, he could not appear before the learned trial Court and subsequently, the trial Court vide order dated 17.11.2023 (Annexure P-2), declared him as proclaimed person.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been declared as 'Proclaimed Person' behind his back when he



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was not in India. He submits that the petitioner never received any notice regarding the same. It is contended that proclamation was issued against the petitioner without following the drill of Section 82 Cr.P.C. and non-compliance of the mandatory provisions vitiates the entire proceedings, which suffers from incurable illegality as he was never served and the impugned order is liable to be set aside. Learned counsel further submits the FIR (*supra*) has already been quashed by this Court on the basis of compromise vide order dated 17.07.2025 passed in CRM-M-24298-2025.

4. *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. However, he could not controvert the fact that FIR (*supra*) has been quashed by this Court on the basis of compromise vide order dated 17.07.2025 passed in CRM-M-24298-2025.

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

6. 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.



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7. 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; 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.

8. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court. The petitioner, in the present case, has himself come forward and a compromise has also been effected between the parties.

9. In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 17.11.2023 (Annexure P-2), vide which, the petitioner was declared as proclaimed person is, hereby quashed along with all subsequent proceedings arising therefrom.

17.07.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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