



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

CRM-M-49798-2025

Date of Decision: 20.11.2025

PRABHJOT SINGH

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Rajiv Rathor, Advocate for
Mr. Ishan Sharma, Advocate for the petitioner.

Mr. Jatinder Pal Singh, Sr. DAG, Punjab.

YASHVIR SINGH RATHOR, J. (Oral)

1. Present petition has been instituted under Section 528 of BNNS, 2023 for quashing order dated 28.05.2025 (Annexure P-18) passed by learned Judge Special Court, Hoshiarpur whereby the petitioner has been declared as a proclaimed offender in case FIR No.47 dated 16.04.2021 under Section 22 of NDPS Act, 1985 registered at Police Station Bullowal, District Hoshiarpur (Annexure P-1).

2. Both the parties have been heard and material placed on the file has been perused.

3. Learned counsel for the petitioner contended that the petitioner has been wrongly been declared as a proclaimed offender. The marriage of the petitioner got solemnized on 06.12.2024 and he got busy



in performing all the religious rites and ceremonies of the marriage and thus, was unable to appear before the Trial Court 13.12.2024. The learned Trial Court cancelled his bail on the same day and non-bailable warrants were issued without issuing notice. On the next date i.e. on 25.02.2025, petitioner could not appear before the Trial Court as his wife was bed ridden and on the same day, proceedings under Section 82 Cr.P.C. were initiated. On 28.05.2025, the petitioner did not appear again due to ill health of his wife and was declared a proclaimed offender. Learned counsel contended that proceedings under Section 82 Cr.P.C. have been initiated in haste and proper procedure has not been followed while declaring him proclaimed offender and impugned order is liable to be set aside.

4. On the other hand, learned State counsel argued that petitioner could not be served when his non-bailable warrants were issued and thereafter, proclamation under Section 82 Cr.P.C was ordered to be issued and he was declared a proclaimed offender. Learned State counsel contended that impugned order is well reasoned and speaking and does not call for interference and petition deserves to be dismissed.

5. A perusal of the record shows that challan was presented before the Court of Additional Sessions Judge on 26.10.2021 and the case was adjourned for consideration on charge. Thereafter, charge was framed and case was adjourned for prosecution evidence and accused continuously kept on appearing before the Trial Court till 23.10.2024. However, he absented on 13.12.2024 and his bail was cancelled and arrest warrants were issued and following order was passed:-

“Accused has not appeared today despite calling the



case several times since morning, neither any exemption application has been moved by his counsel. The perusal of file reveals that accused was granted bail by the court of Sh. Dr. Gopal Arora, the then Judge Special Court Hoshiarpur vide order dated 3.5.2021. Since accused has failed to turned up today in court. therefore, bail order dated 3.5.2021 stands cancelled and bail bonds and surety bonds also stands cancelled and forfeited to the State. Let nonailable warrants of accused be issued for 25.2.2025. Notice to his surety and identifying witnesses be also issued.

*Additional Sessions Judge, Hoshiarpur
UID NO. PB00141”*

6. Thereafter, on the adjourned date, proceedings under Section 82 Cr.P.C were initiated and following order was passed on 25.02.2025 and proclamation was ordered to be issued for 28.05.2025.

“Nonailable warrants of accused received back unexecuted. From the report, this court is satisfied that accused Prabhjot Singh has gone somewhere without any prior intimation or permission of this court. This court has reason to believe that accused is intentionally absconding or concealing himself so that warrants cannot be executed. Proclamation proceedings against Prabhjot Singh be started and in view of judgment dated 12.12.2022, passed by the Hon’ble High Court of Punjab & Haryana in CRM-M-8721-2019 titled as Jagjit Singh @Jaggi Vs. State of Punjab, proclamation of accused Prabhjot Singh be issued under section 82 Cr.P.C. for 28.5.2025 with the direction to serving official to affix the proclamation on or before 10.4.2025 and get his statement recorded on 28.5.2025 in the court, in regard to compliance of three conditions enumerated under section 82 (2) (I)



Cr.P.C. Ahlmad is directed to issue proclamation well in time. Proclamation is issued regarding the accused to appear before this court on 28.5.2025. Notice to his surety and identifying witnesses be again issued for the date fixed.

*Judge, Special Court, Hoshiarpur
UID NO. PB00141”*

7. On 28.05.2025, petitioner was declared a proclaimed offender and following order was passed:-

“Proclamation issued for the service of accused Prabhjot Singh was received back duly effected on 20.3.2025. The serving official ASI Malkit Singh has also made his statement while proving the proclamation as Ex A1 and his report is Ex A2. Statutory period of more than 30 days has been expired but the accused has not put in appearance. As such, accused Prabhjot Singh is declared as Proclaimed offender. Intimation in this regard be sent to SHO concerned. The concerned SHO is further directed to initiate proceedings under section 174-A of IPC against the accused. The Ld. APP for the State closed the prosecution evidence under section 299 Cr.P.C. Accordingly, the file be consigned to record room. The proceedings against the accused be initiated as and when he is arrested or produced before the court.

*Judge, Special Court, Hoshiarpur
UID NO. PB00141”*

8. In this manner, petitioner absented on 13.12.2024 and his bail was cancelled and case was adjourned to 25.05.2025 on which date arrest warrant was received back unexecuted Trial Court observed that



petitioner/accused has gone somewhere without any prior intimation or permission of the Court and the Court has reason to believe that accused is intentionally absconding or concealing himself so that warrants cannot be executed and initiated the proceedings under Section 82 Cr.P.C. However, order has been passed that the proclamation should be read publicly in the area where accused ordinarily resides. Even otherwise, no serious efforts were made to secure his presence by issuing arrest warrants and arrest warrant was issued only for a single date and on the next date, proceedings under Section 82 Cr.P.C. were initiated. It is not even mentioned in the order dated 25.02.2025 as to why the warrant was received back unexecuted. As such, Trial Court did not apply its mind while coming to the conclusion that accused has intentionally absconded or he is concealing himself to avoid the warrants and entire proceedings have been conducted in haste without taking into consideration the fact that he had been regularly appearing from the date of presentation of challan till he absented on 13.12.2024. A Coordinate Bench of this Court while deciding **CRM-M-41656-2023** titled ***Pardeep Kumar Vs. State of Haryana*** has held that before issuance of proclamation under Section 82 of Cr.P.C., the Court must deliberate on its previous efforts to secure presence of the accused through other legally permissible means. These efforts encompass issuance of summons and the execution of bailable and/or non-bailable warrants against the accused. It is incumbent upon the Court to ascertain that individual in question has indeed absconded or is concealing himself to evade execution of warrants of arrest. It has been further held that phrase, 'reasons to believe' as articulated in Section 82 of Cr.P.C. signifies that the Court must derive its belief from the



available evidence and material that the concerned person has absconded or is concealing himself to evade the execution of warrants of arrest. As such proper procedure has not been followed and proceedings have been conducted in haste and on this account only, the proceedings are liable to be quashed.

9. Besides this, in the order dated 25.02.2025, it is no where ordered that the proclamation has to be read publicly in some conspicuous place of the town where the accused ordinarily resides. Even in the order dated 28.05.2025 when petitioner was declared a proclaimed offender, it is not recorded that the serving constable has published the proclamation publicly in some conspicuous place of the town where the accused ordinarily resided. A Coordinate Bench of this Court in 2022 (1) Law Herald 219 titled '**Rahul Dureja and another Vs. State of Punjab**' has held that if there is non-compliance of mandatory provisions of Section 82(2)(i)(a) of Cr.P.C. and proclamation is not read publicly in some conspicuous place of the town or village where the accused ordinarily resides, the accused is deprived of the knowledge of proclamation and on this score, the proclamation notice is liable to be quashed. In 2021 (1) RCR (Criminal) 493 titled '**Harvinder Singh Vs. State of Haryana and another**' it has been further held that if proclamation is not read publicly in the village where accused resided, it is not an irregularity but it renders proclamation and subsequent proceedings as nullity. On this score also, the proceedings initiated under Section 82 Cr.P.C. against the petitioner are invalid. As such, proper procedure has not been followed while declaring petitioner a proclaimed offender and the impugned order, thus, suffers from material



irregularities and illegalities and the same is, thus, not sustainable and is liable to be set aside.

10. As a result of aforesaid discussion, the present petition is accepted and the impugned order dated 28.05.2025 (Annexure P-18), vide which, the petitioner was declared proclaimed offender is set aside.

11. Pending misc. application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

20.11.2025
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No