



CRM-M-37616-2025

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

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CRM-M-37616-2025

Date of decision: 01.09.2025

Jaskaran Singh @ Jaskirnpreet Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Piyush Sharma, Advocate for the petitioner
(through Video Conference)

Mr. Gurpartap S. Bhullar, AAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 528 of BNSS, 2023, seeking quashing of order dated 31.08.2022 (Annexure P-1) passed by the Additional Sessions Judge, Ferozepur whereby the petitioner was declared proclaimed offender in FIR No.262 dated 25.11.2017 registered under Section 22 of the NDPS Act at Police Station Ghall Khurd, District Ferozepur.

2. Learned counsel for the petitioner has drawn the attention of this Court to the order dated 24.07.2025 passed by this Court whereby it was directed that in case the petitioner caused appearance before the concerned Court, he shall be admitted to interim bail by the said Court. Pursuant to the said order, the petitioner appeared before the concerned Court and was released on interim bail. Learned counsel seeks to place on record copy of the order dated 07.08.2025 passed by the trial Court, which is taken on record.



2.1. Learned counsel for the petitioner has iterated that the impugned order declaring the petitioner as a proclaimed offender is patently illegal and unsustainable as the mandatory procedure prescribed under Section 82 of Cr.P.C. has not been adhered to. Learned counsel has further iterated that the proclamation was neither duly published in the manner contemplated under Section 82(2) Cr.P.C. nor was it affixed at the residence of the petitioner as is evident from the statement of the serving official. It has been further submitted that the statutory requirement of granting notice of 30 days was not fulfilled and despite repeated adjournments the petitioner was never served with proper notice of the proceedings dated 31.08.2022. Learned counsel asserts that the impugned order has been passed without properly scrutinizing or verifying the authenticity of the report submitted by the process server. Consequently, the order declaring the petitioner as a proclaimed offender is unsustainable in the eyes of law and deserves to be quashed.

3. Referring to short reply by way of an affidavit of Karan Sharma, PPS, Deputy Superintendent of Police (Rural), Ferozepur, District Ferozepur, on behalf of State of Punjab, learned State counsel has raised submission in tandem with this reply and has opposed the petition in hand. While refuting the case of the petitioner, detailed arguments concerning the merits of the case were made and it is argued that the offence alleged against the petitioner is serious as he is indulged in illegal activity. According to learned State counsel, the Police has conducted a fair and proper investigation and after completion of the same, final report under Section 173 of Cr.P.C., 1973 was presented by the Police. Moreover, it has been stated that the learned Court below followed the procedure as laid-



down under Section 82 of the Cr.P.C., 1973 in letter and spirit and no discrepancy whatsoever is forthcoming from the records of the case.

4. I have heard the learned counsel for the rival parties and carefully perused the record of the case.

5. The law is well settled that a person cannot be declared a proclaimed offender unless the procedure prescribed under Section 82 Cr.P.C. is meticulously followed. It is trite law that the provisions of Section 82 are mandatory in nature and non-compliance thereof vitiates the entire proceedings. In the present case, the proclamation dated 28.07.2022 is not shown to have been executed in conformity with Section 82(2).

6. I find the course adopted by the Court below is antithesis to the provisions of Section 82 of the Code of Criminal Procedure, 1973. The Court below has committed illegality by issuing the said proclamation under Section 82 of the Criminal Procedure Code, 1973, without complying the mandatory requirements of law. The learned Court below, while declaring the petitioner as proclaimed offender, failed to satisfy itself regarding due execution of proclamation and proceeded in a mechanical manner. Such an order being violative of mandatory provisions of law, cannot be sustained.

Section 82 of the Criminal Procedure Code, 1973 reads as under:

“82. Proclamation for person absconding. - (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 punishable under Sections 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459, or 460 of the Indian Penal Code (45 of 1860), 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).]

7. A coordinate Bench of this Court while dealing with invocation of the provision of Section 82 of the Code of Criminal Procedure, against an accused in the case of '**Sonu v. State of Haryana, 2021(1) RCR (Criminal) 319**', held as under:

"9. The essential requirements of section 82 of the Cr.P.C., 1973 for issuance and publication of proclamation against an absconder and declaring him as proclaimed person/offender may be summarized as under:-

(i) Prior issuance of warrant of arrest by the Court is sine qua non for issuance and publication of the proclamation and the Court has to first issue warrant of arrest against the person concerned. (See Rohit Kumar v. State of Delhi: 2008 CrI. J. 2561).

(ii) There must be a report before the Court that the person against whom warrant was issued had absconded or had been concealing himself so that



the warrant of arrest could not be executed against him. However, the Court is not bound to take evidence in this regard before issuing a Proclamation under section 82(1) of the Cr.P.C., 1973. (See Rohit Kumar v. State of Delhi : 2008 CrI. J. 2561).

(iii) The Court cannot issue the Proclamation as a matter of course because the Police is asking for it. The Court must be prima facie satisfied that the person has absconded or is concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence. (See Bishundayal Mahton and others v. Emperor : AIR 1943 Patna 366 and Devender Singh Negi v. State of U.P. : 1994 CrI LJ (Allahabad HC) 1783).

(iv) The requisite date and place for appearance must be specified in the proclamation requiring such person to appear on such date at the specified place. Such date must not be less than 30 clear days from the date of issuance and publication of the proclamation. (See Gurappa Gugal and others v. State of Mysore : 1969 CriLJ 826 and Shokat Ali v. State of Haryana : 2020(2) RCR (CRIMINAL) 339).

(v) Where the period between issuance and publication of the proclamation and the specified date of hearing is less than thirty days, the accused cannot be declared a proclaimed person/offender and the proclamation has to be issued and published again. (See Dilbagh Singh v. State of Punjab (P&H) : 2015 (8) RCR (CRIMINAL) 166 and Ashok Kumar v. State of Haryana and another : 2013 (4) RCR (CRIMINAL) 550)

(vi) The Proclamation has to be published in the manner laid down in section 82(2) of the Cr.P.C., 1973. For publication the proclamation has to be first publicly read in some conspicuous place of the town or village in which the accused ordinarily resides; then the same has to be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides or to some conspicuous place of such town or village and thereafter a copy of the proclamation has to be affixed to some conspicuous part of the Court-house. The three sub-clauses (a)- (c) in section 82 (2)(i) of the Cr.P.C., 1973 are conjunctive and not disjunctive, which means that there would be no valid publication of the proclamation unless all the three modes of publication are proved. (See Pawan Kumar Gupta v. The State of W.B. : 1973 CriLJ 1368). Where the Court so orders a copy of the proclamation has to be additionally published in a daily newspaper circulating in the place in which the accused ordinarily resides. Advisably, proclamation has to be issued with four copies so that one each of the three copies of the proclamation may be affixed to some conspicuous part of the house or homestead in which the accused



ordinarily resides, to some conspicuous place of such town or village and to some conspicuous part of the Courthouse and report regarding publication may be made on the fourth copy of the proclamation. Additional copy will be required where the proclamation is also required to be published in the newspaper.

(vii) Statement of the serving officer has to be recorded by the Court as to the date and mode of publication of the proclamation. (See Birad Dan v. State: 1958 CriLJ 965).

(viii) The Court issuing the proclamation has to make a statement in writing in its order that the proclamation was duly published on a specified day in a manner specified in section 82(2)(i) of the Cr.P.C., 1973. Such statement in writing by the Court is declared to be conclusive evidence that the requirements of Section 82 have been complied with and that the proclamation was published on such day. (See Birad Dan v. State: 1958 CriLJ 965).

(xi) The conditions specified in section 82(2) of the Cr.P.C., 1973 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. (See Devendra Singh Negi alias Debu v. State of U.P. and another: 1994 CriLJ 1783 and Pal Singh v. The State: 1955 CriLJ 318)."

8. It is pertinent to mention that by now it is a settled principle of law that the Court which issues the proclamation under Section 82 of Cr.P.C., must record its satisfaction that the accused in respect of whom the proclamation is being made, is absconding or concealing himself to evade his arrest. The predominant requirement for invocation of provisions of Section 82 of the Code of Criminal Procedure is clearly lacking in the present case. Perusal of order dated 31.08.2022 passed by the Court below shows that no satisfaction has been recorded while issuing the proclamation that the accused-petitioner has absconded or is concealing himself so that warrants of arrest against him cannot be executed. There was no material present before the Court below to record such a satisfaction. Rather, the case put forth by the petitioner before this Court, that he was never served with



any warrants before issuance of proclamation against him stands fortified upon perusal of order dated 31.08.2022.

9. Strangely the impugned order dated 31.08.2022 passed by the Court below, declaring the petitioner as proclaimed offender has relied upon the statement of the serving official to hold that the proclamation issued against the petitioner has been effected. A perusal of the statement of the serving official dated 05.08.2022 shows that on 28.07.2021, he visited the house of the petitioner to serve the arrest warrant issued against the petitioner at his given address in the case but he was not found there. He had pasted one copy of proclamation on the door of the accused and one copy on the common place of village. But the Court below while passing the impugned order declaring the petitioner as proclaimed offender in the case has been totally oblivious of said service report of warrants by the police. As was enunciated in para 9 (vi) of the judgment in the case of *Sonu* (supra), the proclamation has to be published in the manner laid down in section 82(2) of the Cr.P.C., 1973. For publication the proclamation has to be first publicly read in some conspicuous place of the town or village in which the accused ordinarily resides; then the same has to be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides or to some conspicuous place of such town or village and thereafter a copy of the proclamation has to be affixed to some conspicuous part of the Court-house.

10. The provisions of Section 82 of the Code of Criminal Procedure having serious ramifications qua the right of the accused concerning his presence in the criminal trial proceedings ought not be and cannot be invoked in casual and cavalier manner. The requirement of



recording of satisfaction, that the accused has absconded or is concealing himself so that warrant of his arrest cannot be executed, as embodied in Section 82 of the Code of Criminal Procedure, is to be scrupulously complied with based on relevant material available on record of the case in that regard. Non-adherence to said requirement while declaring the accused as proclaimed offender vitiates the proclamation proceedings initiated against the accused.

10.1. Furthermore, vide order dated 24.07.2025 passed by this Court, the petitioner has already entered appearance and has been enlarged on bail by the Court below whereinafter the trial is proceeding. Thus, no useful purpose would be served by keeping the criminal proceedings pending against the petitioner. Thus, it would be an appropriate case for exercise of powers under Section 482 of Cr.P.C./528 of B.N.S.S., 2023 and to bring to an end the criminal proceedings against the petitioner.

11. In view of the prevenient ratiocination, it is ordained thus:

(i) The present petition is allowed and the order dated 31.08.2022 (Annexure P-1) passed by the Additional Sessions Judge, Ferozepur whereby the petitioner was declared proclaimed offender in FIR No.262 dated 25.11.2017 registered under Section 22 of the NDPS Act at Police Station Ghall Khurd, District Ferozepur and the consequent criminal proceedings initiated thereto, is quashed.

(ii) As the petitioner has caused appearance before the concerned Court pursuant to order dated 24.07.2025 earlier passed by this Court, the said order dated 24.07.2025 is hereby confirmed, subject to the petitioner regularly appearing before the trial Court and cooperating in expeditious disposal of the trial. In case of failure to do so, the concerned Court shall be



at liberty to take coercive steps against the petitioner including cancellation of his bail.

(iii) Pending application(s), if any, shall also stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

September 01, 2025
Ajay

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