



CRM-M-42036-2025 (O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-31702-2025 in/&
CRM-M-42036-2025 (O&M)

Date of decision: 18.09.2025

Zaid Khan

...Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Saurabh Sheoran, Advocate for
Mr. Rajat Sheokand, Advocate for the petitioner.
Mr. Vishal Singh, AAG Haryana.

SUMEET GOEL, J.CRM-31702-2025

1. Application for placing on record the true translated copy of the service report carried out for the purpose of proclamation is allowed as prayed, subject to all just exceptions.

C.M. stands disposed of.

CRM-M-42036-2025

1. Present petition has been filed under Section 528 of BNSS, 2023, seeking quashing of order dated 15.04.2025 (Annexure P-6) passed by the Additional Sessions Judge, Jind whereby the petitioner was declared proclaimed person in Sessions Case No.NDPS/21/2022 titled as "*State of Haryana vs. Pritam etc.*" bearing CNR No.HRJN010017122022 arising out of FIR No.264 dated 10.11.2021 registered under Sections 21(C), 29 of the NDPS Act at Police Station Garhi, District Jind.

2. Learned counsel for the petitioner has iterated that the impugned order declaring the petitioner as a proclaimed person is patently



illegal and unsustainable as the mandatory procedure prescribed under Section 82(2) 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)(i)(a) Cr.P.C. nor did the process server publicly read out the proclamation in a conspicuous place where the petitioner ordinarily resided. It has been argued that the inability of the petitioner to join the proceedings was not deliberate. Learned counsel asserts that the impugned order is *ex facie* illegal, arbitrary and unsustainable in the eyes of law and is, therefore, liable to be set-aside. 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 person is unsustainable in the eyes of law and deserves to be quashed.

3. Referring to reply by way of an affidavit of Kamaldeep Rana, HPS, Deputy Superintendent of Police, Narwana, District Jind, on behalf of State of Haryana, 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 in nature and that the Police conducted a fair and proper investigation. According to learned State counsel, the petitioner, after being granted anticipatory bail by this Court, joined the investigation and suffered his disclosure statement by confessing his guilt in the commission of crime. After the completion of the investigation, supplementary report under Section 173(8) Cr.P.C. against the petitioner was prepared and was

**CRM-M-42036-2025 (O&M)****3**

presented before the competent Court of jurisdiction. 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. Furthermore, learned State counsel has contended that though the petitioner was granted the concession of anticipatory bail, yet after the filing of the supplementary challan, he deliberately chose not to appear before the Court below. Consequently, the Court, after adopting due process declared him a proclaimed person. Lastly, learned State counsel has submitted that the conduct of the petitioner clearly demonstrates his willful defiance of the judicial process and abuse of the concession of bail. Thus, dismissal of the instant petition is prayed for.

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/person 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 petitioner had earlier been granted the concession of anticipatory bail by this Court vide order dated 03.08.2023 and was regularly appearing before the trial Court. Learned counsel has further iterated that on 20.05.2024, however, the petitioner failed to cause appearance on account of ill health and consequently, the bail of the petitioner was cancelled. Thereafter, the petitioner was unable to cause appearance on account of medical emergency and filed an application seeking exemption from personal appearance. However, the trial Court vide



impugned order dated 15.04.2025 declared the petitioner as proclaimed person which is not shown to have been executed in conformity with Section 82(2) of the Cr.P.C.

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 person, 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 it is by now a settled principle of law that before issuing a proclamation under Section 82 Cr.P.C., the Court must record its satisfaction that the accused, against whom the proclamation is sought to be issued, is absconding or concealing himself with intent to evade arrest. This foundational requirement is conspicuously absent in the present case. A perusal of the impugned order dated 15.04.2025 reveals that no such satisfaction was recorded by the Court below, nor was there any material to justify the inference that the petitioner had absconded or was deliberately avoiding arrest. On the contrary, the stand of the petitioner that he was never served with any warrants prior to the issuance of proclamation finds support from the record itself.

9. Even otherwise, the reliance placed by the Court below on the statement of the serving official is wholly misplaced. The official merely deposed that upon not finding the petitioner at his residence, he pasted one copy of the process outside the house of the petitioner, another at a public place, and a third on the notice board of the Court. Such steps fall short of the mandatory requirements of Section 82(2) Cr.P.C. As laid down in Sonu (supra), the proclamation must first be publicly read in a conspicuous place of the town or village in which the accused ordinarily resides, then affixed to



some conspicuous part of his house or homestead or at a conspicuous place in the town or village, and finally affixed to a conspicuous part of the Court-house. In the present case, the mandatory procedure for publication has not been complied with, thereby rendering the impugned order unsustainable in law.

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 person vitiates the proclamation proceedings initiated against the accused.

11. Hence, no useful purpose would be served by keeping the criminal proceedings pending against the petitioner, particularly when the petitioner has already joined the investigation and duly cooperated. It is, therefore, an appropriate case for the exercise of powers under Section 528 of BNSS/Section 482 of Cr.P.C. and to bring to an end the criminal proceedings initiated in the light of the FIR *ibid* against the petitioner.

12. In view of the above findings, in the entirety of facts and circumstances of the present case, the present petition is allowed and the order dated order dated 15.04.2025 (Annexure P-6) passed by the Additional Sessions Judge, Jind whereby the petitioner was declared proclaimed person

**CRM-M-42036-2025 (O&M)****9**

in Sessions Case No.NDPS/21/2022 titled as “*State of Haryana vs. Pritam etc.*” bearing CNR No.HRJN010017122022 arising out of FIR No.264 dated 10.11.2021 registered under Sections 21(C), 29 of the NDPS Act at Police Station Garhi, District Jind as well as the other consequential proceedings arising therefrom are quashed.

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

(SUMEET GOEL)
JUDGE

September 18, 2025

Ajay

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