



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

131

CRM-M-43628-2025

Date of decision: 08.09.2025

Parminder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Jasraj Singh, Advocate
for the petitioner.

AARADHNA SAWHNEY, J.(ORAL)

1. Petitioner, an accused in case FIR No.61 dated 18.06.2018 registered against him under Sections 323, 452, 506, 148 and 149 IPC (Section 34 IPC added later on in place of Section 148 and 149 IPC) at Police Station Mehtiana, District Hoshiarpur, has prayed for setting aside/quashing the order dated 11.07.2023 (Annexure P-6) passed by the learned Judicial Magistrate First Class, Hoshiarpur, vide which he (Petitioner) was declared a 'Proclaimed Offender'.

2. As per Petitioner, after he was arrested in the aforesaid FIR, he was granted the concession of anticipatory bail by learned Additional Sessions Judge, Hoshiarpur, vide order dated 25.06.2018, which was made absolute on 10.07.2018.

During pendency of the aforesaid case, petitioner could not appear in the Court and on 30.01.2023, following order was passed:-

"Notice to accused Parminder Singh received back unserved with report of abroad. Accordingly the bail bonds of accused Parminder Singh stands cancelled. His bail bonds and surety bonds are also forfeited to state. Let, accused Parminder Singh be arrested and produced before this Court on 03.03.2023.



Notice to his surety be also issued for the date fixed. Fresh notice to accused Ajay Singh be also issued.”

On 03.03.2023, following order was passed:-

“Non bailable warrants issued to accused Parminder Singh received back unexecuted. This Court is satisfied that accused is intentionally concealing his presence to evade process of the court. Let, proclamation of accused be issued for 24.04.2023.

Notice issued to surety received back served with report of died. Death report of surety be called from SHO concerned on next date.”

On 24.04.2023, following order was passed:-

“Proclamation issued against accused Parminder Singh received back executed. Statement of serving constable has also been recorded in this regard. Statutory period of 30 days has not been lapsed. Adjourned to 22.05.2023 awaiting appearance of accused Parminder Singh.

Death report of surety Tarsem Singh received. Which is accompanied by copy of death certificate of surety Tarsem Singh who died on 07.01.2022. Since surety has already died proceedings against him stand dropped.”

The Court was conscious of the fact that since the statutory period of 30 days, from the publication of proclamation had not elapsed (Annexures P-8 and P-9 reveal that executing constable had visited at the residence of petitioner-accused on 21.04.2023), the case was adjourned to 22.05.2023 for awaiting the presence of the petitioner. On the following day i.e. on 22.05.2023, the Presiding Officer was on leave, resultantly, the case was adjourned to 11.07.2023, when the following order was passed and the petitioner was declared as Proclaimed Offender:-



“Case was fixed awaiting appearance of accused. Case called several times since morning. However neither the accused has appeared nor has anyone else appeared explaining absence of accused. Statement of serving constable has already been recorded. As such accused Parminder Singh is hereby declared proclaimed person. Intimation in offender this regard be sent to SHO concerned for proceeding in accordance with law.

An application for exemption from personal appearance of accused Ajay Singh has been filed which stands allowed today only keeping in view grounds mentioned therein application. Summons to Pws be issued for 25.8.2023.”

3. Learned counsel submits that a bare perusal of the interim orders passed by the learned trial Court, copies of which have been appended along with the petition, go to show that proclamation was issued against petitioner for 24.04.2023. Since the executing constable had visited at the residence of petitioner/accused on 21.04.2023, the case was adjourned to 22.05.2023, as the statutory period of 30 days from the publication of the proclamation and the date fixed for appearance of the accused had not lapsed. Learned counsel for the petitioner submits that in the scenario as above, learned trial Judge ought to have issued fresh proclamation. It is, thus, clear that the requisite procedure so prescribed under Section 82 Cr.P.C. was not followed by the learned trial Judge, in letter and spirit. Order dated 11.07.2023, as per learned counsel, for the reason mentioned above, is legally unsustainable and deserves to be set aside. In support of his submission, learned counsel places reliance upon following judgments:-

1. Ashok Kumar vs. State of Haryana and another 2013(4) RCR (Criminal) 550



2. CRM-M-1866 of 2017, titled as Avtar Singh vs. State of Punjab and another, decided on 08.03.2017

3. CRM-M-42609 of 2014, titled as Narinder Kohli and others vs. State of Punjab, decided on 08.02.2017

Learned counsel submits that the petitioner undertakes to appear before the learned trial Court within a period of 3 weeks.

4. Heard. Documents on record perused.

5. Vide order dated 03.03.2023, learned trial Judge, without referring to the report on the non-bailable warrants that had been issued to procure presence of the accused (petitioner herein), arrived at the conclusion that since the accused has intentionally concealing his presence to evade process of the Court, his presence be procured through proclamation for 24.04.2023. On 24.04.2023, statement of the executing constable was recorded, however, as per the report of the serving constable, the publication of the said proclamation was effected on 21.04.2023 (Annexure P-8). On the said day, statement of the executing constable was recorded, as per which, he had visited at the residence of the petitioner on 21.04.2023 (reference to Annexures P-8 and P-9). The trial Court was conscious of the fact that the 30 days period from the date when the publication of proclamation was effected i.e. 21.04.2023 and when the accused was directed to appear before the Court i.e. on 24.04.2023, had not elapsed, therefore, the case was adjourned for 22.05.2023. At this stage, it would be appropriate to refer to Section 82(1) of Cr.P.C., which 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.”

It is, thus, clear that a period of 30 days is required to be furnished to accused to put in his appearance. While interpreting the said provision, this Court in ***Ashok Kumar vs. State of Haryana and another 2013(4) RCR (Criminal) 550*** held that where the period of 30 days had not elapsed from the date the publication was issued and accused had to put in appearance in the Court, as also that where the Court subsequently adjourns the matter, such adjournment beyond 30 days cannot be treated as compliance of provisions of 82(1) Cr.P.C.

6. In view of the above referred judicial precedents, as also the facts and circumstances of the present case, the impugned order dated 11.07.2023 (Annexure P-6) passed by the learned JMIC, Hoshiarpur, is set aside.

7. In view of the facts mentioned hereinabove, the present petition is disposed of with a direction to the petitioner to appear before the Court concerned within a period of 3 weeks. He shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would also submit specific undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

(AARADHNA SAWHNEY)
JUDGE

08.09.2025

Hemant

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