

2025.PHHC.177662



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

274

CRM-M-44362-2025 (O&M)

Date of decision: 22.12.2025

Malkeet Singh and others**...Petitioners****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. H. S. Batth, Advocate
for the applicants-petitioners.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. H. S. Oberoi, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)**1. CRM-47838-2025**

Prayer in this application is for preponing the hearing of the main case, which is fixed for 06.04.2026.

For the reasons stated in the application, the same is allowed. The main case is preponed and is ordered to be taken up today itself.

2. CRM-M-44362-2025 (O&M)

The instant petition has been filed by the petitioners under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for quashing of order dated 05.07.2025 (Annexure P-2), passed by the Court of learned Judicial Magistrate First Class, Patti in case arising out of FIR No. 25 dated 14.03.2021, registered under Sections 336 and 160 of IPC and Sections 25 and 27 of the Arms Act, 1959 at Police Station Bhikhiwind,

2025.PHHC.177662



District Tarn Taran, whereby the petitioners had been declared as proclaimed offenders.

3. It is argued by learned counsel for the petitioners that they have been falsely implicated in this case. The petitioners had no knowledge about registration of the aforementioned FIR against them. They were never served with any notice/warrants issued by the learned trial Court. More so, the petitioners had been declared as proclaimed offenders without following the proper procedure prescribed under Section 82 of Cr.P.C. They are ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

4. *Per contra*, learned Assistant Advocate General, Punjab has resisted the petition by submitting that there is no infirmity in the impugned order and the petitioners had rightly been declared as proclaimed offenders as they were running away from the process of Court. It is, thus, urged that the petition is liable to be dismissed.

5. Learned counsel for the complainant has also vehemently opposed the prayer made by the petitioners by submitting that they had due knowledge about pendency of the aforementioned case against them. However, they did not appear either before the Investigating Officer or before the learned trial Court. They do not deserve any leniency in the matter. He has prayed for dismissal of the petition.

6. This Court has heard the rival submissions.

7. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section

2025.PHHC.177662



82 Cr.P.C. as against the petitioners till the date of declaring them as proclaimed offenders, this Court is of the considered opinion that the impugned order dated 05.07.2025 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

8. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 01.05.2025, since the non-bailable warrants issued against the petitioners were received back unserved, the learned trial Court had ordered for issuance of proclamation against them for 22.05.2025. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has not recorded its proper satisfaction that the petitioner had absconded or was concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence, which was in violation of the provisions of Section 82(1) of Cr.P.C. Reliance in this regard can be placed upon ***Rohit Kumar Vs. State of Delhi : 2008 CrL J. 2561.***

9. Further, the learned trial Court had issued proclamation on 01.05.2025 against the petitioners requiring them to cause their appearance before the trial Court on 22.05.2025, which means that the petitioners were not granted mandatory period of 30 days to cause their appearance before the learned trial Court. Hence, the same was in clear violation of the provisions of Section 82(1) Cr.P.C., as per which, a specified time of not less than 30 days is required to be given to the accused from the date of publishing such proclamation which is mandatory in nature. Reliance in this regard can be placed upon ***Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826*** and ***Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339.***

2025.PHHC.177662



Further, while adjourning the case to 05.07.2025 to complete the mandatory period of 30 days, the learned trial Court failed to consider the fact that it could not have extended the time by simply adjourning the case as a fresh proclamation was required to be published once the period between issuance of publication of proclamation and the specified period of hearing was less than 30 days. Reference in this context can be made to ***Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166.***

10. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 05.07.2025 (Annexure P-2), passed by the Court of learned Judicial Magistrate First Class, Patti in case arising out of FIR No. 25 dated 14.03.2021, registered under Sections 336 and 160 of IPC and Sections 25 and 27 of the Arms Act, 1959 at Police Station Bhikhiwind, District Tarn Taran, whereby the petitioners had been declared as proclaimed offenders, is quashed with all consequential proceedings arising therefrom.

11. However, the petitioners are directed to surrender before the learned trial Court within a period of four weeks from today, subject to order for grant of anticipatory bail, if any passed on their petition(s) to be filed under Section 482 of BNSS. In the absence of any order for grant of anticipatory bail and on such surrender, the petitioners shall be liable to be remanded to judicial custody subject to any order for grant of regular bail to be passed by the concerned Court in accordance with law.

12. Needless to observe that in case any application is filed before the concerned Court for grant of regular bail, then the concerned Court shall

2025.PHHC.177662



be bound to dispose of the same expeditiously and that nothing in this order shall be treated as expression of any opinion on merits so as to bind or influence the concerned Court in disposal of the same.

13. Till the appearance of the petitioners before the trial Court, their arrest shall remain stayed.

14. It is made clear that in case the petitioners fail to appear before the learned trial Court within a period of four weeks from today, this petition shall be deemed to be dismissed.

22.12.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No