



CRM-M-45078-2025

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

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CRM-M-45078-2025 (O & M)

Date of decision: 12.11.2025

BALJEET KUMAR

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Manoj Kumar Sharma, Advocate,
for the petitioner.

Mr. Rahul K. Adia, AAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. The present petition has been filed under Section 528 of BNSS, 2023, for quashing the order dated 19.07.2025, whereby the petitioner has been declared a proclaimed offender in FIR No.151 dated 12.09.2023, under Section 15 (C) NDPS Act, 1985, registered at Police Station Nathana, District Bathinda.

2. Status report by way of affidavit of the Deputy Superintendent of Police, Sub Division Bhucho, District Bathinda, filed in the Court, is taken on record.

3. Learned counsel contends that the petitioner was granted interim bail on 21.10.2023, Annexure P-2, which was extended on account of his marriage, vide orders dated 27.10.2023 and 09.11.2023, Annexures P-3 and P-4, and he was directed to surrender on or before

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19.11.2023. However, he came under pressure of his wife and they both left for Canada on account of which he was unable to appear and non-bailable warrants were issued, consequent thereto he was declared a proclaimed offender vide impugned order dated 19.07.2025. As per the report of the serving constable also, it is evident that the petitioner had gone abroad. The impugned order has been passed without following the procedure under Sections 41, 105 and 82 Cr.P.C. A further reference is made to a Notification issued by the Government of India Ministry of Home Affairs, IS Division-II:Legal Cell New Delhi, dated the 11th Feb, 2009, laying down comprehensive guidelines in this regard of reciprocal arrangements to be made by Central Government with the Foreign Governments with regard to the service of summons/warrants/ judicial processes. The Ministry of Home Affairs has entered into Mutual Legal Assistance Treaty/Agreements with 22 countries including Canada which provide for serving of documents. Thus, the proclamation proceedings being in violation thereof are liable to be set aside, however, he is ready and willing to surrender before the trial Court for which he seeks only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate.

4. Learned State counsel submits that the trial Court has rightly passed the order as the petitioner did not appear before it and evaded the proceedings.

5. Heard.

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6. In the case of **Jasbir Kaur vs. State of Punjab and another**, CRM-M-25115-2022, decided on 2.6.2022, since the petitioner therein was a Non Indian Resident residing in Canada and proclamation proceedings had been initiated while she was not in India, as such, the order of proclamation was set aside.

7. Similarly, in **Jaswant Singh vs. State of Punjab and another**, CRM-M-32011-2018, petition was allowed on 6.2.2020, noticing the submission made by the counsel for the petitioner relying on the photocopy of the passport (Annexure A-1) that he was in Italy at the time of registration of FIR 29.10.2009, as well as, on the day, when he was declared proclaimed offender vide order dated 28.4.2014 and even on the date of passing of the above order.

8. The very purpose of issuance of summons, warrants etc. is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

9. Reverting to the facts of the present case inasmuch as it was because the petitioner had moved to Canada, prior to the passing of the impugned order and the procedure as envisaged by the Code not followed in letter and spirit, he could not be served and as such, his explanation for absence appears to be justified.

10. Accordingly, the impugned order dated 19.07.2025 is set aside, subject to surrender by the petitioner before the trial Court on or before 20.12.2025 and files an application seeking regular bail, the same

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be decided within 3 days, in accordance with law. Till then, no coercive steps be taken against the petitioner.

11. Disposed of accordingly.

12. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

12.11.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

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