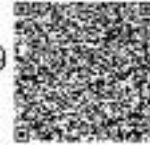


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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-45417-2025 (O&M)

Date of decision: 22nd December, 2025

Siddharth Chauhan

...Petitioner

Versus

Serious Fraud Investigation Officer (SFIO)

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Prateek Gupta, Advocate and
Mr. Vikram Sheoran, Advocate for the petitioner.

Ms. Puneeta Sethi, Senior Panel counsel and
Mr. Y.S. Thakur, Advocate for the respondent-SFIO.

MANISHA BATRA, J (ORAL):-

CRM-51613-2025

This application has been filed by the applicant for placing on record the judgment dated 09.04.2025 passed by Hon'ble Supreme Court as Annexure P-23.

For the reasons mentioned in the application, the same is allowed, subject to all just exceptions. Annexure P-23 is ordered to be taken on record.

Main case

The instant petition has been filed under Section 528 of BNSS seeking quashing of the order dated 22.07.2025 passed by the learned Special Court under the Companies Act, Gurugram, in Criminal Complaint No. 05 of

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2019 titled as *Serious Fraud Investigation office vs. Adarsh Build Estate Ltd. and others*, whereby the petitioner had been declared a proclaimed person.

2. The aforementioned complaint has arisen out of order dated 20.06.2018 passed by the Central Government through Ministry of Corporate Affairs (**hereinafter referred to as 'MCA'**) whereby MCA in exercise of the powers conferred under Section 212(1)(c) of the Companies Act, 2013 (**For short, 'Companies Act'**) and Section 43(2) and (3)(c)(i) of the Limited Liability Partnership Act, 2008 (for short, '*LLP Act*'), ordered investigation into the affairs of Adarsh Group of Companies and its 125 Limited Liability Partnership Companies (hereinafter referred to as '*companies under investigation*' '*CUIs*') by Serious Fraud Investigation Office (for short '*SFIO*') on the allegations of siphoning off funds of Adarsh Credit Cooperative Society Limited (for short, '**ACCSL**'). As per the investigation conducted, funds of the ACCSL, which actually belonged to 22 lakhs depositors and were of amount of several crores of rupees, were received by the CUIs on unsubstantiated and questionable projected balance sheets and financial statements. Both CUIs as well as the ACCSL, were controlled by Mukesh Modi, who was the founder of ACCSL, and who along with his family members and associates, was found involved. In the complaint submitted by the complainant, the petitioner was arraigned as accused No. 135, and his eight companies were arraigned as accused Nos. 71 to 78. This complaint has to be considered as a report presented under Section 173 of the Cr.P.C. in terms of the provisions of Section 212(15) of the Companies Act.

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3. After issuance of process by the Court of learned Special Judge, the petitioner moved an application for grant of pre-arrest bail which was dismissed vide order dated 01.08.2019 by learned Special Judge. He filed an application for pre-arrest bail before this Court which was dismissed vide order dated 13.11.2019. Even a special leave petition challenging the order dated 13.11.2019, as filed by the petitioner was dismissed as withdrawn before Hon'ble Apex Court on 16.09.2022. In the meanwhile, proceedings under Section 82 of Cr.P.C. were initiated by the learned Special Judge, since the petitioner had not appeared before it despite the fact that even non-bailable warrants were issued against him for 11 times and he was fully aware of the proceedings. On 25.03.2022, order was passed by the special judge for issuance of proclamation against the petitioner for 02.07.2022. The proclamation so issued on 07.05.2022 had been received back duly published. However, the petitioner filed a petition bearing CRM-M-27904-2022 before this Court and vide order dated 01.07.2022, the matter was ordered to be listed with CRM-M-20279-2020 filed by the petitioner wherein vide order dated 24.05.2022, the trial Court was directed to adjourn the proclamation proceedings beyond the date fixed by this Court. The aforementioned petition was ultimately dismissed as withdrawn on 09.01.2025.

4. As further revealed from the material placed on record, on 14.01.2025, the respondent-SFIO moved an application for declaring the petitioner as a proclaimed person. The petitioner was thereafter granted several opportunities to appear before the trial Court but failed to appear thereby compelling the learned Special Judge to declare him as a proclaimed person on 22.07.2025 by making following observations: -

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“Learned Senior Prosecutor pointed out that pursuant to dismissal of the anticipatory bail application of accused No.135/ Siddharth Chauhan up to the Hon’ble Supreme Court and on account of non-appearance before the Court, vide order dated 25.03.2022, proclamation proceedings against said accused were initiated by learned Predecessor of this Court and proclamation was ordered to be published against the accused and Executing official was directed to come present on 07.05.2022 to suffer statement regarding due publication against the accused and then on 07.05.2022 concerned Executing Official suffered statement regarding due publication of proclamation qua this accused, as so reflected vide order dated 07.05.2022 passed by learned Predecessor and thereafter matter was adjourned to 02.07.2022 for presence of the accused, but in the meanwhile said accused preferred petition bearing No. CRM-M-27904-2022 before Hon’ble High Court and Hon’ble High Court directed to adjourn the proclamation proceedings qua said accused in terms of order dated 04.08.2022, however the said petition has ultimately been dismissed by Hon’ble High Court vide order dated 09.01.2025 and accordingly, made a prayer that said accused be declared proclaimed offender, as he is not coming present before the Court despite specific direction(s) passed by this Court to come present before this Court, as so recorded vide order dated 27.02.2025. The afore-noted aspects of the matter are not in dispute. The proclamation has been duly published qua accused No.135/ Siddharth Chauhan and accused was granted enough time i.e. much more than 30 days time to appear before the Court, pursuant to publication of proclamation. Case called several times since morning, but accused No. 135/Siddharath Chauhan has not come present. It is already 4:00 PM. Therefore, accused No. 135/Siddharth Chauhan is declared as proclaimed person/officer in this case.”

5. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law, as while passing the same, the learned Special Court ignored the fact that the petitioner, through his counsel, had been appearing before the said Court in a routine manner and had never tried to escape from the proceedings pending before it. The impugned

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order has completely failed to justify the proclamation. The proper procedure for declaring him as a proclaimed person has not been followed at all. The fact that an application for grant of pre-arrest bail bearing CRM-M-13646 of 2025 was pending at that time before this Court, had also been ignored. After dismissal of the petition bearing CRM-M-27904 of 2022, he could not appear before the Special Court in person as he was undergoing treatment in a hospital and had moved applications seeking exemption on medical grounds.

6. It is further argued that no proper satisfaction was recorded by the trial court after withdrawal of the earlier quashing petition. No new proclamation notice was published. His non-appearance on the dates fixed before the learned trial court was neither intentional nor deliberate, but due to *bonafide* reasons. He had been continuously participating in the legal proceedings through his counsel and was neither absconding nor concealing himself so as to prevent execution of warrants. There is no evidence of any proper publication, affixation or minimum 30 days' notice has been produced on record as required by law. The learned Special Judge, while declaring the petitioner as a proclaimed offender/ person, did not apply his judicious mind. The impugned order is vitiated by fundamental legal inconsistencies and illegalities. The petitioner had showed his *bonafide* and intention to appear before the Court time and again. With these broad submissions, it is urged that the impugned order dated 22.07.2025 is not sustainable in the eyes of law and is liable to be set aside.

7. The respondent has filed reply. Learned Senior Panel counsel for

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the respondent has vehemently argued that the impugned order does not suffer from any illegality or infirmity, as the petitioner had been summoned as an accused for commission of offences punishable under Section 447 of the Companies Act, 2013, read with Sections 417, 418, and 420 read with Section 120-B of the IPC. Processes were issued against him at the address provided by him during investigation on account of his non-appearance, initially bailable warrants and thereafter non-bailable warrants were issued. The application for grant of anticipatory bail as filed by the petitioner had been dismissed by the Special Court on 01.08.2019 and thereafter, by this Court vide order dated 13.11.2019. The petitioner had also filed a Special Leave Petition on 08.09.2022 before the Hon'ble Supreme Court challenging the order dated 13.11.2019, but the same was dismissed as withdrawn on 16.09.2022. He was fully aware of the proceedings pending before the trial court but did not surrender. Warrants were issued against him eleven times, but he avoided the execution of the same, thereby compelling the Special Court to initiate proceedings under Section 82(1) of the Cr.P.C. vide order dated 25.03.2022. The proclamation issued for 02.07.2022 had been received back duly effected on 07.05.2022, and the statement of the executing police official was also recorded. However, the petitioner could not be declared a proclaimed person in view of the orders dated 24.05.2022 passed in CRM-M-27904 of 2022 by this Court as mentioned in order dated 01.07.2022, which was subsequently withdrawn by the petitioner on 09.01.2025. The learned trial court had rightly declared him as a proclaimed person on 02.07.2025. No fresh

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proceedings were required to be initiated. It is, thus, urged that there is no merit in the present petition and the same is liable to be dismissed. To fortify her arguments, the learned Senior Panel Counsel for the respondent has placed reliance upon the judgments cited in case of ***Serious Fraud Investigation Office vs. Aditya Sharda and others, 2025 INSC 477***, wherein while dealing with the plea of another accused of this very case, for grant of anticipatory bail, the Hon'ble Apex Court had observed that when summons or warrants are issued to an accused, he is bound to submit himself to the authority of law. If he creates hinderances in execution of warrants and conceals himself and does not submit to the authority of law, he must not be granted of privilege of anticipatory bail. Reliance has also been placed upon ***Srikant Upadhyay and others vs. State of Bihar and another (2024) SCC Online SC 282***, wherein similar observations were made when an accused against whom proclamation proceedings had been initiated, prayed for grant of anticipatory bail.

8. The petitioner is challenging the order dated 22.07.2025 passed by the learned Special Court, whereby he was declared a proclaimed person. Section 82 of the Cr.P.C., Code of Criminal Procedure, which is *pari materia* with Section 84 of the BNSS, is relevant for the purpose and the same is reproduced as under:-

“82. Proclamation for person absconding.-

(1) If any Court has reason to believe 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.

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(2) The proclamation shall be published as follows:-

(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; and

(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 section 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)].”

9. On a bare perusal of the contents of the above-mentioned provision, it is apparent that the Court is competent to initiate proceedings for declaring an accused as a proclaimed person if it has reason to believe that such accused has absconded or is concealing himself so that the warrant issued against him cannot be executed and so as to avoid his appearance before the Court. The very purpose of this section is to secure the presence of an accused who is avoiding his appearance/arrest before the trial Court.

10. Admittedly and evidently, the petitioner has been well aware of the fact that he has been summoned as an accused for commission of offences punishable under Section 447 of the Companies Act, 2013 and under the provisions of the Indian Penal Code. He moved an application seeking grant

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of anticipatory bail way back in the year 2019, which was dismissed on 13.11.2019. Even an SLP filed by him against the order of dismissal by this Court had been dismissed as withdrawn on 16.09.2022. Since a counsel engaged by the petitioner has been appearing before the Special Court, therefore, it is obvious that he is having knowledge about each, and every proceeding conducted before the learned Special Court. The proceedings under Section 82 of Cr.P.C. were initiated vide order dated 25.03.2022 and proclamation was ordered to be issued for 02.07.2022, which was duly published, but since in the meanwhile the petitioner filed a petition before this Court and as an interim order was passed in his favour, he could not be formally declared a proclaimed person by the learned Special Court. On withdrawal of the said petition by the petitioner on 09.01.2025, the learned trial Court had started proceeding further against him.

11. The copies of orders passed by the learned trial Court are part of the record. A perusal of Annexure P-15, which is a copy of order dated 18.01.2025, has revealed that the respondent filed an application on 13.01.2025 for declaring the petitioner as a proclaimed person since there was no restraining order. Annexure P-16 is a copy of the order dated 27.02.2025, showing that an application for exempting the presence of the petitioner had been moved by his counsel, which was dismissed, and by taking a lenient view, the learned Special Court still granted another opportunity to the petitioner to appear before it on 07.04.2025. However, neither on 07.04.2025 nor on subsequent dates till 22.07.2025, the petitioner caused his appearance

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before the learned Trial Court, thereby compelling the learned Trial Court to declare him as a proclaimed person after waiting till 4:00 p.m.

12. The petitioner, in the meanwhile, had filed an application for grant of anticipatory bail before this Court, which was dismissed as withdrawn on 25.02.2025, and another petition was filed on 19.03.2025. As already discussed, his first petition had been dismissed by the Special Court as well as this Court, and the order of dismissal was upheld by the Hon'ble Apex Court. The third petition for grant of anticipatory bail bearing CRM-M-13646 of 2025 has also been dismissed today by passing a separate order.

13. Undoubtedly, the issuance of process under Section 82 of Cr.P.C. and pronouncing a person as a 'proclaimed person or proclaimed offender' entails serious consequences, including not only deprivation of personal liberty of a person but also attachment of his properties and thus, any order to that effect must reflect satisfaction of the Court that the person concerned has absconded or is concealing himself to avoid the process of law. However, in this case, the petitioner is trying to take advantage of technicalities of law for the purpose of quashing of the impugned order, as, it is apparent that even after being well aware about the pendency of the complaint against him, he is taking the courts for a ride, since the year 2019, by initiating one proceeding or the other for the purpose of avoiding his surrender/appearance before the learned trial Court. The very purpose of Section 82 of Cr.P.C. is to inform an accused of the fact that some criminal proceedings are pending against him and to give him reasonable time to appear before the Court, even while having

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reason to believe that he has absconded or is concealing himself so that the warrant issued against him cannot be executed. The petitioner has stepped much further, as he has avoided his surrender/appearance and execution of warrants issued against him, while being fully aware of the fact that even proceedings for declaring him as a proclaimed person had been initiated. The challenge to the impugned order, as such, is nothing but a device by the petitioner to misuse the process of law under the pretext that proper procedure for declaring him as a proclaimed person has not been followed.

14. Learned counsel for the petitioner has placed on record Annexure P-23, a copy of order dated 21.11.2025 passed by Hon'ble Supreme Court showing that a petition has been filed for review of the order dated 09.04.2025 passed in *Aditya Sarda's case (supra)*, who is a co-accused, whereby his prayer for grant of anticipatory bail was rejected and the Hon'ble Apex Court has restrained the trial Court from taking any coercive action against the abovesaid accused. In the opinion of this Court, the petitioner, however, cannot draw any assistance from this fact.

15. On an overview of the orders passed by learned trial Court and in view of discussion made above, this Court is of the opinion that it does not lie in the mouth of the petitioner to say that his non-appearance on the date fixed before the learned trial Court was not intentional or deliberate or was due to bona fide reasons, or that the impugned order is not sustainable in the eyes of law. As such, the petition does not deserve to be allowed. The same is accordingly dismissed.

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16. Since the main petition has already been decided, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

22nd December, 2025

Parveen Sharma

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |