



S. No.125

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

CRM-M-47602 of 2025 (O&M)

Date of Decision:02.12.2025

Rajat Kumar @ Raja @ Madaan @ Mota

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Rakesh Kumar, Advocate for the petitioner.

Mr. Jatinder Pal Singh, Sr. DAG, Punjab.

Yashvir Singh Rathor, J. (Oral)

1. Present petition has been instituted under Section 482 Cr.P.C/528 of BNSS, 2023 for quashing of order dated 29.04.2023 (Annexure P.7) passed by learned Additional District and Sessions Judge, Amritsar, whereby the petitioner has been declared as a proclaimed offender in case FIR No.114 dated 09.08.2019 under Sections 21/22/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Ranjit Avenue, District Amritsar and all the consequential proceedings arising therefrom.

2. I have heard learned counsel for the parties and perused the material placed on record.

3. A perusal of the record shows that the accused absented on 12.10.2021 and his bail was canceled and arrest warrants were issued for 03.12.2021 on which date the non-bailable warrants issued against accused were



received back with the report that he is lodged in Central Jail, Ropar. Thereafter, the trial Court ordered issuance of his production warrants for 18.01.2022, on which date also, he was not produced and fresh production warrant was ordered to be issued for 16.03.2022, 05.05.2022, 02.06.2022, 16.09.2022, 04.11.2022, 23.11.2022 and 15.12.2022. However, on 15.12.2022, it was reported that the petitioner – Rajat Kumar @ Raja @ Madaan @ Mota, who was in custody in Central Jail, Ropar, was released on bail on 17.12.2021 and thereafter, his non-bailable warrants were issued for 18.02.2023. On 20.02.2023, proceedings under Section 82 Cr.P.C were initiated and following order was passed:-

“File taken up today 18.02.2023 was declared holiday. Non bailable warrants of arrest of accused Rajat Kumar son of Parvesh Kumar not received back. The case is lingering on for procuring the presence of accused Rajat Kumar son of Parvesh Kumar through warrants of arrest and it seems that accused Rajat Kumar son of Parvesh Kumar is evading his arrest. In these circumstances, court is satisfied that presence of the accused Rajat Kumar son of Parvesh Kumar could not be procured through warrants of arrest. Thereafter, proclamation under Section 82 Cr.P.C be issued against accused Rajat Kumar son of Parvesh Kumar for 29.04.2023. Notice to his surety be also issued under Section 446 Cr.P.C for date fixed.

Date of Order: 20.02.2023

Additional Sessions Judge, Amritsar
UID No.PB00173”



4. Thereafter, on the adjourned date, petitioner was declared a proclaimed offender on 29.04.2023 and the following order was passed:-

“Today case has been fixed for awaiting appearance of accused **Rajat Kumar son of Parvesh Kumar**. However, neither the said accused nor anyone on his behalf appeared despite repeated calls. It is already 4:30 PM. Awaited sufficiently. Mandatory period of 30 days has already been elapsed. Accordingly, Rajat Kumar son of Parvesh Kumar has been declared as Proclaimed Offender. Necessary intimation be sent to the concerned police station. Proceedings under Section 83 Cr.P.C qua accused Rajat Kumar son of Parvesh Kumar as well as proceedings under Section 446 Cr.P.C qua the surety of the accused be separated and initiated for 28.07.2023.

Accused **Kamaljeet Singh** has not come present today and his counsel has also not appeared. In such circumstances, his bail order is canceled, the bail bonds and surety bonds of accused Kamaljeet Singh are also canceled and forfeited to the State. Non bailable warrants of accused Kamaljeet Singh be issued for 28.07.2023. Notice u/s 446 Cr.P.C to surety be also issued for date fixed.

Date of Order:2023-04-29 Additional District and Sessions Judge
UID No.PB00173

5. A perusal of the afore-said orders reveals that on the day, petitioner absented, he was in custody in Central Jail and his production warrants were ordered to be issued but trial Court failed to secure his presence even from the



concerned jail. In the order dated 20.02.2023, the trial Court has not recorded satisfaction that the accused has either absconded or concealed himself and that his presence cannot be secured in ordinary manner. The only reasoning recorded by the Court is that case is lingering for securing the presence of accused through warrants of arrest and it appears that he is evading the arrest. The Court further observed that his presence cannot be secured in ordinary manner and issued proclamation under Section 82 Cr.P.C. No satisfaction was recorded that the petitioner has absconded or concealed himself. A Coordinate Bench of this Court while deciding CRM-M-41656-2023 titled *Pardeep Kumar Vs. State of Haryana* vide judgment dated 23.8.2023 has held that before issuance of proclamation under Section 82 of Cr.P.C., the Court must deliberate on its previous efforts to secure presence of the accused through other legally permissible means. These efforts encompass issuance of summons and the execution of bailable and/or non-bailable warrants against the accused. It is incumbent upon the Court to ascertain that individual in question has indeed absconded or is concealing himself to evade execution of warrants of arrest. It has been further held that phrase, 'reasons to believe' as articulated in Section 82 of Cr.P.C. signifies that the Court must derive its belief from the available evidence and material that the concerned person has absconded or is concealing himself to evade the execution of warrants of arrest. It has been further held that once proclamation is issued, it must be set forth in the proclamation as to where and when the concerned individual must present himself. A designated location and time must be stipulated. Importantly, the specific date and time for appearance should not be less than 30 days from the date of publication of the proclamation.



6. Besides this, no order has been passed that the proclamation shall be publically read in the area of the town where the accused ordinarily resided. In the order dated 29.04.2023, when he was declared a proclaimed offender, even there is no reference to the statement of the serving constable and it has been simply observed that the case was fixed for appearance of the accused and since he has not appeared, he was declared proclaimed offender. Order is silent as and when the executing constable had published/ pasted the proclamation and whether the same was publically read at the conspicuous place, town or the place where the accused ordinarily resided or not. As such, there was violation of provisions of Section 82(2)(i)(a) of Cr.P.C and on this score also, proclamation is invalid and a nullity and proceedings under Section 82 of Cr.P.C are thus liable to be quashed. In holding so, I have relied upon 2022(1) Law Herald 219 – **Rahul Dureja and another Vs. State of Punjab**, 2021(1) RCR (Criminal) 493 – **Harvinder Singh Vs. State of Haryana and another**, 2024(1) Law Herald 859 – **Mahender Kumar Vs. Housing Development Finance Corporation Ltd.**, 2024(1) Law Herald 291 – **Ramandeep Singh Sangha @ Ramna Sangha Vs. State of Punjab**, and 2024(2) RCR (Criminal) 5- **Sukhjinder Singh Vs. State of Punjab and another**.

7. As a result of aforesaid discussion, I am of the considered opinion that proper procedure has not been followed by the trial Court while declaring petitioner a proclaimed person and the impugned order, thus, suffers from material irregularities and illegalities and the same is, thus, not sustainable and is liable to be set aside and accordingly, the present petition is accepted and the impugned



order dated 29.04.2023 (Annexure P-7), vide which, the petitioner was declared proclaimed offender is set aside.

8. Pending misc. applications(s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

December 02, 2025
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No