

CRM-M-47522-2025

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

CRM-M-47522-2025

Date of Decision: 28.08.2025

JOGINDER SINGH

..... Petitioner

*Versus***STATE OF PUNJAB**

..... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

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

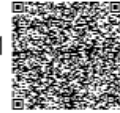
Mr. Gorav Kathuria, DAG Punjab.

YASHVIR SINGH RATHOR, J. (Oral)

1. Present petition has been instituted under Section 528 read with Section 529 of BNNS, 2023 for quashing order dated 03.04.2007 (Annexure P-5) passed by learned Additional Chief Judicial Magistrate, Hoshiarpur whereby the petitioner has been declared proclaimed offender in case FIR No.481 dated 20.12.2005 (Annexure P-1) under Section 302 of IPC at Police Station Sadar, District Hoshiarpur along with other consequential proceedings arising from the same.

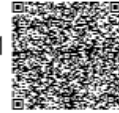
2. I have heard the learned counsel for the petitioner as well as the learned State counsel and have gone through the material collected by the police during investigation.

3. Learned counsel for the petitioner argued that petitioner has been wrongly declared a proclaimed offender. Challan was presented on before the Trial Court on 02.01.2017 and was adjourned to 10.01.2007 and production warrants of co-accused Jasbir Singh and Gurtej Singh



were ordered to be issued who were produced on 07.02.2007 and case was adjourned to 21.02.2007. On 22.02.2007, non-bailable warrant issued against petitioner was received back un-executed and learned Court observed that accused cannot be served in ordinary manner and ordered issuance of proclamation under Section 82 Cr.P.C. for 07.03.2007 on which date proclamation was received back effected and case was adjourned to 03.04.2007 for appearance of accused on which date petitioner was declared a proclaimed offender. Learned counsel contended that when proclamation was ordered to be issued vide order dated 22.02.2007, no satisfaction has been recorded by learned Court that accused has either absconded or is concealing himself to avoid execution of arrest. Learned counsel further contended that proclamation was ordered to be issued vide order dated 22.02.2007 for 07.03.2007 on which date proclamation was received back effected and thereafter, case was adjourned for appearance of accused to 03.04.2007. However, no proclamation had been issued for 03.04.2007 whereas proclamation should have been issued at-least for a period beyond 30 days and specific date and time for appearance of accused should not have been less than 30 days from the date of publication of proclamation. The accused-petitioner was, thus, wrongly declared a proclaimed offender. Proper procedure has, thus, not been followed and impugned order dated 03.04.2007 is not only irregular but illegal and same is liable to be set aside.

4. On the other hand, learned State counsel argued that petitioner could not be served when his non-bailable warrants were issued and thereafter, proclamation under Section 82 Cr.P.C was ordered to be



issued and he was declared a proclaimed offender. Learned State counsel contended that impugned order is well reasoned and speaking and does not call for interference and petition deserves to be dismissed.

5. Learned counsel for the petitioner has annexed various orders passed by the Trial Court and orders dated 22.02.2007, 07.03.2007 and 03.04.2207 are being reproduced as under:-

“Order dated 22.02.2007

Accused Jasbir Singh and Gurtej Singh in custody.

Non bailable warrant of accused Parvej Kumar and Joginder Singh received back un-executed. Serving constable Sukh Ram Singh present. His statement recorded. In view of the statement of Sukh Ram I am satisfied that accused Parvej Kumar and Joginder Singh cannot be served in ordinary process. Hence, both the accused are ordered to be summoned through proclamation under section 82 Cr.P.C for 7.3.07.

Order dated 07.03.2007

Accused Jasbir Singh and Gurtej Singh in custody.

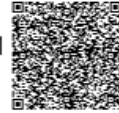
Proclamation against accused Parvej Kumar and Joginder Singh received. Statement of Serving HC recorded. Now to come up on 3.4.07 for appearance of accused Parvej Kumar & Joginder Singh.

Accused Jasbir Singh & Gurtej Singh be produced on 21.3.07 for ruhnumai.

Order dated 03.04.2007

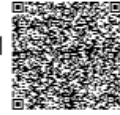
Accused Jasbir Singh and Gurtej Singh in custody.

Accused Parvej kumar @ Babbu and Joginder Singh did not appear despite proclamation duly effected. Statutory period has already been elapsed. As such, both the above named accused are ordered to be declared as proclaimed offenders. Necessary intimation be sent to the concerned Police station. Heard. Vide my separate order of today the present case is committed to the court of Learned Sessions Judge,



Hoshiarpur for trial for 17.4.2007. Accused who are in custody be produced before that court at 10-00 AM on the date fixed, Ahlmad is directed to send the file well before the date fixed complete in all respect to the court of Learned Sessions Judge, Hoshiarpur.
ANNOUNCED/3.4.2007.”

6. A perusal of the record reveals that accused could not be arrested by the police during investigation and his non-bailable warrant was issued which was received back unserved on 22.02.2007 and learned Additional Chief Judicial Magistrate observed that accused cannot be served in ordinary manner. However, no satisfaction has been recorded that accused has either absconded or is concealing himself and he cannot be served in ordinary manner and only after recording such a satisfaction, the proceedings under Section 82 Cr.P.C. could have been initiated. Thereafter, proclamation was ordered to be issued for 07.03.2007 vide order dated 22.02.2007 and proclamation was effected for 07.03.2007. However, vide order dated 22.02.2007, case was required to be adjourned beyond a period of 30 days for appearance of accused and publication of proclamation and period of 30 days has not been provided in the said proclamation. After the proclamation was received back on 07.03.2007, case was adjourned to 03.04.2007 for appearance of accused when he was declared a proclaimed offender. However, no proclamation had been issued for 03.07.2007 when he was declared a proclaimed offender which, infact, had been issued only for 07.03.2007. 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. As already discussed above, the proclamation was ordered to be issued for 07.03.2007 vide order dated 22.02.2007 and not for a period beyond 30 days when the proclamation was received back duly effected and thereafter, case was adjourned to 03.04.2007 for awaiting of presence of accused but no proclamation had been issued for 03.04.2007 and it was not set forth in the proclamation as to whether the accused has to appear before the Court on 03.04.2007 or not. Rather, when the proclamation was ordered to be issued vide order dated 22.02.2007, the same should have been adjourned beyond 30 days and the proclamation should have been published 30 days prior to the date fixed for appearance of the accused and both dates should have been mentioned in the proclamation notice itself. In these circumstances, proper procedure has not been

followed while declaring the petitioner a proclaimed offender and impugned order, thus, suffers from material irregularity and illegality and the same is, thus, not sustainable and is liable to be set aside.

7. As a result of the aforesaid discussion, the present petition is accepted and the impugned order dated 03.04.2007 (Annexure P-5), vide which, the petitioner was declared proclaimed person is set aside.

(YASHVIR SINGH RATHOR)
JUDGE

28.08.2025

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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No