



CRM-M-50211-2025

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

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CRM-M-50211-2025 (O & M)
Date of decision: 08.09.2025

ANIL KUMAR SONI

....Petitioner

Versus

STATE OF PUNJAB

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sahil Gupta, Advocate,
for the petitioner.

Mr. M.S.Bajwa, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. The present petition has been filed under Section 528 of BNSS, 2023, for quashing of order dated 10.07.2025, Annexure P-1, passed by learned SDJM, Nabha, District Patiala, in FIR No.274 dated 25.12.2021, registered under Sections 406 and 420 IPC, at Police Station Kotwali, Nabha, whereby the petitioner has been declared proclaimed person.

2. Learned counsel contends that the petitioner was implicated in the aforesaid FIR on 25.12.2021 and was granted anticipatory bail on 08.12.2022, Annexure P-3. Thereafter, challan was presented and he continued to appear regularly before the trial Court, but on 22.11.2024, due to ill-health, he could not appear, following which his bail was

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cancelled and non-bailable warrant was issued for 07.01.2025. Thereafter on 19.04.2025, proclamation under Section 82 Cr.P.C. was issued for 06.05.2025 and statement of the Executing Constable was recorded on 05.05.2025 wherein he stated that on the even date, the proclamation was affixed at his house, since the petitioner was not found there, and thereafter, vide order dated 10.07.2025, he was declared proclaimed person. The procedure mandated under Section 82 Cr.P.C. had not been followed, as the petitioner was declared proclaimed offender without affording him the pre-requisite time period of 30 days to appear before the trial Court, for which reference is made to order dated 06.05.2025 wherein the case was adjourned to 10.07.2025, since the mandatory period of 30 days had not elapsed. He is ready and willing to join the proceedings on or before the next date of hearing which is 18.09.2024 and prays that one last opportunity may be granted to him to surrender before the trial Court. To buttress the submissions, reliance is placed upon judgments in the cases of CRM-M-29878-2022, **Sardar Singh and another vs. State of Punjab and another**, decided on 30.08.2022, **Uttam Sharma vs. State of Punjab and another**, CRM-M-31481-2021, dated 29.09.2021 and **Ashok Kumar vs. State of Haryana and another**, CRM-M-13638-2013, decided on 05.08.2013.

3. Learned State counsel, on the other hand, submits that the order passed against the petitioner is legal and valid on account of the fact that he had absented from the proceedings before the trial Court without any just cause.

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4. Heard

5. It is apposite to refer to the provisions of Section 82 (1)

Cr.P.C. which reads thus:-

“82. Proclamation for person absconding. - (1) If any Court has reason to believe (whether after taking evidence or not) 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.

(2) xx xx xx xx

(3) xx xx xx xx.”

6. In the present case, proclamation was issued on 19.04.2025 and thereafter, affixation of the notice was on 05.05.2025, whereby he was directed to appear before the Court on 06.05.2017. Since, the mandatory period of 30 days to appear before the Court had not elapsed, the case stood adjourned to 10.07.2025, for the period to be completed, which is in teeth of the law laid down in that regard. A gainful reference can be made to the judgment in **Ashok Kumar (supra)**, relevant para of which reads thus:

“A copy of the proclamation was also affixed at conspicuous part of the Court house, which means that the publication was effected on 9.2.2013 for 6.3.2013, which shows that after the publication of the notice, the accused was not given the mandatory period of 30 days to appear before the Court. The mere fact that the Court adjourned it after the period of 30 days will not be treated as compliance of the provisions of Section 82 (1) Cr.P.C.”

7. The aforesaid judgment was relied upon in **Uttam Sharma (supra)**, wherein the order of proclamation was set aside, as a clear 30 days time from the date of publication was not afforded before issuing

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absconding warrant against the accused as per the statutory provisions of Section 82 Cr.P.C.

8. The present petition has been filed on 04.09.2025 and next date before the trial Court is 18.09.2025, which reflects the bona fide of the petitioner to join the proceedings.

9. In view of the above discussion, this Court finds that the requisite procedure as mandated by Section 82 Cr.P.C. was not completely followed in letter and spirit, thus, the continuation of proceedings would be an abuse of the process and deserve to be quashed, as held in **Ramesh Chandra vs. State of U.P.**, 2022 SCC OnLine SC 1634.

10. In view of the afore-mentioned judgments and the facts and circumstances of the case, the impugned order dated 10.07.2025, Annexure P-1, is set aside, subject to surrender by the petitioner before the trial Court on or before 25.09.2025 and payment of costs of Rs.10,000/- to be deposited with the Punjab and Haryana High Court Bar Association Advocates' Welfare Fund. On furnishing bail/surety bonds, the trial Court shall release him on bail subject to its satisfaction. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

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11. 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.

08.09.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No