



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

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CRM-M-51608-2025

Date of Decision : 15.09.2025

KRISHAN KUMAR @ KRISHAN SHIRA**...Petitioner****VERSUS****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY**

Present: Mr. Pawan Attri, Advocate
for the petitioner.

Ms. Shweta Nahata, DAG, Haryana.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner, a co-accused in case FIR No. 195 dated 07.12.2019, registered against him for commission of offences punishable u/s 34, 325, 323 IPC at Police Station Guhla, District Kaithal, has prayed for quashing of order dated 26.05.2022 (Annexure P-12) passed by the learned Judicial Magistrate Ist Class, Guhla, vide which he was declared "*Proclaimed Person*".

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He was granted the concession of bail by the learned trial Court, vide order dated 01.07.2020. On 18.01.2021, petitioner could not appear before the trial Court as he had to go abroad. Resultantly, his bail was cancelled and bail/surety bonds were forfeited to the State and his presence was secured through non-bailable warrants. Notice to his surety was also issued. Resultantly, proclamation proceedings were initiated against him (petitioner) and vide order dated 26.05.2022, he was declared "*Proclaimed Person*".

Learned counsel further submits that in eventuality as above, learned Magistrate should have procured the presence of petitioner in accordance with



provisions of Section 105 Cr.P.C. (now Section 110 BNSS). Thus, on the face of it, the proclamation order dated 26.05.2022 being not in 'sync' with law, is illegal. It is further the contention of the learned counsel that now the petitioner is wanting to return back to India and join the trial proceedings. Learned counsel further intimates that on coming to India, petitioner would surrender before the Court concerned. However, he requests that the petitioner may kindly be granted adequate protection from his arrest, thereby enabling him to surrender before the learned trial Court/Illaqa Magistrate concerned.

In view of the submissions made hereinabove, learned counsel submits that a lenient view be taken in favour of the present petitioner, who undertakes to appear before the trial Court.

3. Heard. Before proceeding further, let us carefully go through Section 105 Cr.P.C, which reads as under:-

“105. Reciprocal arrangements regarding processes.

(1) *Where a Court in the territories to which this Code extends (hereafter in this section referred to as the said territories) desires that*

(a) *a summons to an accused person, or*

(b) *a warrant for the arrest of an accused person, or*

(c) *a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or*

(d) *a search-warrant,*

[issued by it shall be served or executed at any place, -

(i) *xxxxxxx*

(ii) in any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation to criminal



matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and sent to such authority for transmission, as the Central Government may, by notification, specify in this behalf;]

(2) Where a Court in the said territories has received for service or execution -

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

(c) a summons to any person requiring him to attend and produce a document or other thin or to product it, or

(d) a search-warrant,

[issued by -

(i) a Court in any State or are in India outside the said territories;

(ii) a Court, Judge or Magistrate in a contracting State, it shall cause the same to be served or executed] as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where -

(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by Sections 80 and 81;

(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by Section 101 :

[Provided that in a case where a summons or search warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall he forwarded to the Court issuing the summons or search warrant through such



authority as the Central Government may, by notification, specify in this behalf.]”

In the case in hand, admittedly, it was intimated to the trial Court that the petitioner has left for foreign land. In this eventuality, trial Court should have adhered to the procedure so prescribed under Section 105 (1)(ii) Cr.P.C., rather non-bailable warrants were repeatedly issued on his residential address and based upon the report that non-bailable warrants had been received back unexecuted, learned trial Court presumed that petitioner is deliberately not appearing and thus, proclamation proceedings were initiated.

For want of compliance of the procedure so mentioned in Code of Criminal Procedure, proclamation order dated 26.05.2022 is hereby set aside. In view of the prayer made by learned counsel, coupled with the fact that the petitioner is ready and willing to return to India and to surrender before the learned trial Court/Illaq Magistrate concerned, and that, the underlying object behind declaring any person a “*Proclaimed Person/Offender*” is to secure his presence for facing trial, this Court deems it appropriate to grant an opportunity to the petitioner to surrender before the learned trial Court/Illaq Magistrate concerned within a period of 15 days from today i.e. till 30.09.2025. The arrest of petitioner shall remain stayed only up to 30.09.2025 and he shall not be arrested at the Airport concerned, upon his arrival from abroad.

However, it is clarified that if the petitioner does not, comply with aforesaid direction and surrender before the learned trial Court/Illaq Magistrate concerned upto the stipulated period, the protection regarding his arrest, as granted hereinabove, shall stand *ipso facto* vacated, without any further reference to this Court.



It is also clarified that the moment the petitioner surrenders, this order granting interim protection would cease to operate, and thereupon, the learned trial Court/Illaq Magistrate concerned shall proceed further in accordance with law. No observations made hereinabove shall have any bearing on the merits of the bail application, which shall be decided, as per law.

Accordingly, the instant petition stands disposed of.

(AARADHNA SAWHNEY)
JUDGE

15.09.2025
Nisha Yadav

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No