



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

126

CRM-M-51041-2025 (O&M)

Date of decision: 11.09.2025

Jaskaran Singh Brar

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Shailesh Aggarwal and Mr. Yash Garg, Advocates
for the petitioner

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition filed under Section 528 BNSS for quashing the order dated 18.02.2022, Annexure P-10, whereby the petitioner has been declared as proclaimed person in FIR No.58 dated 12.04.2017, registered under Sections 307 and 34 IPC and Sections 25 and 27 of Arms Act, at Police Station Baghapurana, District Moga.

2. Learned counsel submits that in the FIR registered against the petitioner, he was granted anticipatory bail vide order dated 04.11.2019, Annexure P-2 and subsequently, there was a compromise arrived between the complainant and all co-accused on 22.11.2019, Annexure P-3. Challan was however presented on 05.06.2020. Thereafter, as per the legal advise, he had left the country on 27.12.2020 in an understanding that he was no longer required, for which, reference is made to the copy of his passport bearing the immigration stamp of India and Canada dated 27.12.2020, Annexure P-5. Thereafter, the matter was listed on the various dates, however, no notice was issued to the petitioner as stated in para 8 of the petition and for the first time on 19.04.2021, as is evident



from the said order, Annexure P-7, however, without following the procedure under Sections 41, 105 and 82 Cr. P.C., he was declared proclaimed offender vide order dated 18.11.2022. Thereafter, the main accused namely Gagan Kumar alias Golu has been acquitted by the learned Additional Sessions Judge, Moga vide judgment dated 17.03.2023, Annexure P-12 and the second accused is facing the trial while the petitioner is willing to join the proceedings. A further reference is made to a Notification issued by the Government of India Ministry of Home Affairs, IS Division-II:Legal Cell New Delhi, dated the 11th Feb, 2009, laying down comprehensive guidelines in this regard of reciprocal arrangements to be made by Central Government with the Foreign Governments with regard to the service of summons/warrants/judicial processes. The Ministry of Home Affairs has entered into Mutual Legal Assistance Treaty/Agreements with 22 countries including Canada which provide for serving of documents, thus the proclamation proceedings being in violation thereof are liable to be set aside. Further that the absence of the petitioner was neither wilful nor deliberate and on account of the reason aforesaid. To buttress his submission, he places reliance on the judgments of this Court in **Gurbir Singh Mundi vs. State of Punjab and another** CRM-M-49283-2021, decided on 16.12.2021, **Hardev Kaur vs. State of Punjab** 2018(2) Law Herald 1256; **Jasbir Kaur vs. State of Punjab and another**, CRM-M-25115-2022, decided on 2.6.2022 and CRM-M-32011-2018 titled as **Jaswant Singh vs. State of Punjab and another**, decided on 6.2.2020, order dated 24.09.2021 passed in SLP (Crl.) No.7072 of 2021 filed by the above petitioner- Jaswant Singh, judgment dated 20.10.2021 in Criminal Appeal no. 1233 of 2021 (SLP (Crl.) No.7072 of 2021), which was allowed.

3. It is his submission that absence of the petitioner was neither



intentional nor willful but for the reasons aforesaid. He further contends that the petitioner is ready and willing to surrender before the trial Court and apply for bail, for which he prays for grant of only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate to impose. Learned Counsel submits that in view of the impugned order having been passed against the petitioner, he is apprehending his arrest and prays that till the time, he surrenders before the Trial Court, his arrest may be stayed, in light of the order dated 06.02.2020 passed by this Court in the case of **Jaswant Singh** (supra). He also places reliance on the judgments in the cases of **Surjit Singh vs. State of Punjab**, CRM-M-38277-2022, decided on 26.8.2022, **Naveen Rao vs. Central Bureau of Investigation (CBI) ACB, Chandigarh**, CRM-M-29461-2018, decided on 18.7.2018, **Dimple Kumar vs. State of Punjab** 2017(1) RCR (CrI.), 602 and '**Sonu Sharda vs. State of Punjab**' CRM-M-16648-2020 decided on 1.6.2020.

4. Learned State counsel submits that the trial Court has rightly passed the order as the petitioner did not appear before the Court and evaded the proceedings.

5. Heard the learned counsel for the parties.

6. In the case of **Jasbir Kaur** (supra), since the petitioner therein was a Non Indian Resident residing in Canada and proclamation proceedings had been initiated while she was not in India, as such, the order of proclamation was set aside.

7. Similarly, in the case of **Jaswant Singh** (supra), this Court in the interim order dated 10.9.2018, noticed the submission made by the counsel for the petitioner relying on the photocopy of the passport (Annexure A-1) that the



petitioner was not in India at the time of registration of FIR on 29.10.2009, as well as, on the day, when he was declared proclaimed offender vide order dated 28.4.2014 and even on the date of passing of the above order, as he was in Italy, directed him to surrender before the trial Court, upon which interim bail was ordered to be granted to him. This Court vide order dated 6.2.2020 though declined the prayer for quashing of FIR made in the petition, but, with regard to the order declaring him a proclaimed offender, directed him to surrender before the trial Court and file an application for regular bail, however, till then he was ordered to be not arrested. He however challenged the said order inasmuch as this Court had declined his prayer for quashing of the FIR, wherein Hon'ble The Supreme Court of India vide an interim order dated 24.09.2021 passed in SLP (Crl.) No.7072 of 2021, ordered not to take coercive steps against him. Subsequently, vide judgment dated 20.10.2021, the Criminal Appeal no. 1233 of 2021(SLP(Crl.) No.7072 of 2021) was allowed and FIR was quashed, in para 8 whereof it was mentioned that, he had surrendered on 27.10.2018, whereafter he was admitted to interim bail.

8. The very purpose of issuance of summons, warrants etc. is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

9. Adverting to the facts of the present case inasmuch as it was because the petitioner had moved to Canada, after the compromise having effected between the parties and was under impression that he was no more required, which appears to be justified explanation of his absence. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering his readiness and willingness to surrender and join the



proceedings for which he is seeking only one opportunity and the absence of his not being willful and deliberate and no prejudice shall be caused to the complainant, rather his joining the proceedings would help in expediting the trial, which is in the interest of the parties thus, in order to meet the ends of justice and on finding judgments referred to above being applicable to the instant case, the present deserves to be allowed.

10. Accordingly, the present petition is hereby allowed. The impugned order dated 18.02.2022, Annexure P-10, is set aside, subject to surrender by the petitioner before the trial Court on or before 30.09.2025 and payment of costs of Rs.25,000/- to be deposited with the Chandi Kusht Ashram, Sector 47-B, Chandigarh. 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.

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.

(AMAN CHAUDHARY)
JUDGE

11.09.2025
M.Kamra

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No