



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-55098-2025 (O&M)

Date of decision: 31.10.2025

Arvind Pal

.....Petitioner

Versus

State of Punjab and Anr

.....Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Gaurav Singla, Advocate for the petitioner.

AARADHNA SAWHNEY, J (ORAL)**CRM-42256-2025**

Prayer in the instant application is for placing on record copies of Zimni orders passed by learned trial Court as Annexures A.1 to Annexure A.13.

Allowed, as prayed for.

Main case

1. Petitioner, an accused in case FIR No.24 dated 06.03.2018 under Section 21 of NDPS Act registered at P.S Shambu, District Patiala, has prayed for setting aside/quashing the order dated 09.05.2025(Annexure P-5) passed by the learned Addl. Sessions Judge, Patiala vide which he (Petitioner) was declared as a 'Proclaimed Offender'.

2. As per Petitioner, after he was arrested in the aforesaid FIR, he was granted the concession of regular bail by the trial Court vide order dated 18.04.2018. He had been regularly appearing before the trial Court on each and every date of hearing. During pendency of the aforesaid case, petitioner failed to put in appearance before the trial Court in 2022 due to serious medical issues. Consequently, his bail bonds and surety bonds were cancelled and forfeited to the State. His presence was sought to be procured through non-bailable warrants.

3. Learned counsel for the petitioner submits that the absence of the petitioner was neither wilful nor intentional but it was only on account of medical exigency. Twofold submissions have been raised by learned counsel, firstly, that



prior to initiating proceedings under Section 82 Cr.P.C, learned Addl. Sessions Judge did not record any specific finding that the petitioner is intentionally avoiding to appear before the court. While referring to interim orders dated 31.07.2023, 29.08.2023, 22.11.2023 and 09.01.2024 passed by the trial Court, learned counsel contends that a bare perusal of the same show that non-bailable warrants were never received back served either by the petitioner or by any of his family member, thus there was no material available with the learned Addl. Sessions Judge to arrive at a conclusion that despite service, the petitioner has chosen not appear. In any case, even such finding was also not recorded in order dated 26.02.2024. Secondly, while drawing the attention of this Court to order dated 20.05.2025 (Annexure P.6) passed by learned Addl. Sessions Judge, SAS Nagar, learned counsel contends that the petitioner was in custody from 11.03.2025 till 20.05.2025 in case FIR No.53 dated 11.03.2025 under Section 25,54,59 of Arms Act registered at P.S Dera Bassi, District SAS Nagar, thus, the question of proclamation having been duly effected upon the petitioner does not arise.

4. Notice of motion.

5. At the asking of the Court, Mr. Kamalpreet Bawa, DAG Punjab, accepts notice on behalf of respondent No.1-State and submits that there is no infirmity or illegality in the impugned order as the petitioner had knowingly absented himself from the proceedings.

6. Before proceeding further, it would be appropriate to refer to a judgment of Coordinate Bench of this Court in **CRM-M-23777-2020** titled **Sonu V/s. State of Haryana, decided on 06.10.2020**, wherein the essential requirements of section 82 Cr.P.C. for issuance and publication of proclamation against an absconder and declaring him as proclaimed person/offender were discussed as



(i) Prior issuance of warrant of arrest by the Court is sine qua non for issuance and publication of the proclamation and the Court has to first issue warrant of arrest against the person concerned. (See Rohit Kumar Vs. State of Delhi : 2008 CrL J. 2561).

(ii) There must be a report before the Court that the person against whom warrant was issued had absconded or had been concealing himself so that the warrant of arrest could not be executed against him. However, the Court is not bound to take evidence in this regard before issuing a Proclamation under Section 82 (1) of the Cr.P.C.. (See Rohit Kumar Vs. State of Delhi : 2008 CrL J. 2561).

(iii) The Court cannot issue the Proclamation as a matter of course because the Police is asking for it. The Court must be prima facie satisfied that the person has absconded or is concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence. (See Bishundayal Mahton and others Vs. Emperor : AIR 1943 Patna 366 and Devender Singh Negi Vs. State of U.P. : 1994 CrL LJ (Allahabad HC) 1783).

(iv) The requisite date and place for appearance must be specified in the proclamation requiring such person to appear on such date at the specified place. Such date must not be less than 30 clear days from the date of issuance and publication of the proclamation. (See Gurappa Gugal and others Vs. State of Mysore : 1969 Cri LJ 826 and Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339).

(v) Where the period between issuance and publication of the proclamation and the specified date of hearing is less than thirty days, the accused cannot be declared a proclaimed person/offender and the proclamation has to be issued and published again. (See Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166 and Ashok Kumar Vs. State of Haryana and another : 2013 (4) RCR (Criminal) 550)

(vi) The Proclamation has to be published in the manner laid down in Section 82 (2) of the Cr.P.C.. For publication the proclamation has to be first publicly read in some conspicuous place of the town or village in which the accused ordinarily resides; then the same has to be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides or to some conspicuous place of such town or village and thereafter a copy of the proclamation has to be affixed to some conspicuous part of the Court-house. The three sub-clauses (a)-(c) in Section 82 (2)(i) of the Cr.P.C. are conjunctive and not disjunctive, which means that there would be no valid publication of the proclamation unless all the three modes of publication are proved. (See Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368). Where the Court so orders a copy of the proclamation has to be additionally published in a daily newspaper circulating in the place in which the accused ordinarily resides. Advisably, proclamation has to be issued with four copies so that one each of the



three copies of the proclamation may be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides, to some conspicuous place of such town or village and to some conspicuous part of the Court-house and report regarding publication may be made on the fourth copy of the proclamation. Additional copy will be required where the proclamation is also required to be published in the newspaper.

(vii) *Statement of the serving officer has to be recorded by the Court as to the date and mode of publication of the proclamation. (See Birad Dan Vs. State : 1958 CriLJ 965).*

(viii) *The Court issuing the proclamation has to make a statement in writing in its order that the proclamation was duly published on a specified day in a manner specified in Section 82(2)(i) of the Cr.P.C.. Such statement in writing by the Court is declared to be conclusive evidence that the requirements of Section 82 have been complied with and that the proclamation was published on such day. (See Birad Dan Vs. State : 1958 CriLJ 965).*

(xi) *The conditions specified in Section 82(2) of the Cr.P.C. for the publication of a Proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the Proclamation and proceedings subsequent thereto a nullity. (See Devendra Singh Negi alias Debu Vs. State of U.P. and another : 1994 CriLJ 1783 and Pal Singh Vs. The State : 1955 CriLJ 318).*

7. It is, clear that the Court which issues proclamation under Section 82 Cr.P.C., must record specific reason/satisfaction that the accused against whom the proceedings are being initiated has absconded or concealed himself to evade the arrest. As noted hereinabove, even though warrants of arrest issued against petitioner were received back unexecuted, learned trial Court presumed (in the absence of any cogent document) that service has been effected upon petitioner, who is deliberately avoiding to appear in the Court.

8. A further perusal of interim order dated 01.02.2025 (Annexure A.11) appended along with the application bearing CRM-42256-2025 goes to show that the learned Addl. Sessions Judge had issued fresh proclamation to procure presence of the accused for 09.05.2025 and had directed the serving Constable to get the proclamation effected on or before 08.04.2025.



9. On 09.05.2025, when the case was taken up, following two separate orders (Annexure A.12) were passed:

“Proclamation of accused received back duly executed. As such main file titled as State Vs. Arvind Pal and another, CIS No.NDPS/294/2018 be summoned from record room. To come up after lunch.”

“File put up after lunch. Main file received from record room and attached with this file. Statement of serving constable ASI Sucha Singh has already been recorded. The period of 30 days have elapsed. Case called many times. Accused Arvind Pal has not come present despite the fact that proclamation has been duly effected against him. So he is declared Proclaimed offender in CIS No.NDPS/294/2018 whose proceedings was separated in the present CRM vide order dated 07.06.2023. Proceedings under Section 446 Cr.P.C against proclaimed offender Arvind Pal and his surety be separated. Copy of this proclamation be sent to office of SSP, Patiala and office of SSP of the native place of accused Arvind Pal for making entry in their record. Such entry be also made in the Police Station Shambu.

Now to come up on 07.08.2025 for prosecution evidence under Section 299 Cr.P.C. PWs be summoned for the said date.”

10. From the perusal of orders dated 09.05.2025, it is not clear as to when exactly the Executing Constable had visited the residence of petitioner-accused. Further the order is also silent as to whether the Executing Constable had actually complied with the procedural requirement so mentioned in Section 82(2)(i) Cr.P.C. As has already been noted above, the petitioner was in custody from 11.03.2025 till 20.05.2025 in case FIR No.53 dated 11.03.2025 under Section 25,54,59 of Arms Act registered at P.S Dera Bassi, District SAS Nagar when he was extended the concession of bail vide order dated 20.05.2025 (Annexure P.6).

11. There is nothing on record that the executing constable had complied with all the prerequisites of Section 82 Cr.P.C., in the sense that he had apart from



pastings a copy of the proclamation outside the house of petitioner had also read the declaration publicly in some conspicuous place etc.

Thus when viewed in totality, it is clear that the procedural requirement of Section 82 Cr.P.C has not been complied with in letter and spirit.

12. Resultantly, in view of the discussion made hereinabove, the impugned order dated 09.05.2025, whereby the petitioner was declared Proclaimed Offender, is set aside. Accordingly, present petition stands allowed.

13. Learned counsel submits that the petitioner undertakes to appear on the date fixed before the learned trial Court.

14. Heard.

15. In view of the facts mentioned hereinabove, petitioner is directed to surrender before the Court concerned within a period of fifteen days. He shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would also submit specific undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

16. It is further made clear that in case, the petitioner absents himself from appearing in the Court, without any plausible explanation/moving an application for exemption, this order shall stand automatically vacated.

31.10.2025
manoj

(AARADHNA SAWHNEY)
JUDGE

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