



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-63653 of 2024

Reserved On: 28.10.2025
Pronounced On: 30.10.2025

Yadwinder Singh alias Yaddu

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Rajan Singh Dadwal, Advocate
for the petitioner(s).

Mr. I.P.S.Sabharwal, Deputy Advocate General,
Punjab, for the respondent No.1.

Mr. Suraj Kaundal, Advocate
for the respondents No.2 to 4.

Surya Partap Singh, J.

1. The order dated 27.03.2018 (Annexure P4) passed by the learned Judicial Magistrate 1st Class, Feorzepur, hereinafter referred to as “the trial Court”, is under challenge in the present petition under Section 482 of the Code of Criminal Procedure, 1973.

2. The quashing of above-mentioned order, whereby the petitioner has been declared proclaimed offender in the case pertaining to FIR No. 67 dated 26.05.2016, under Section 382 of the Indian Penal Code, 1860, Police Station Ghall Khurd, District Ferozepur, has been sought on the ground that the mandatory provisions enshrined under Section 482 Cr.P.C. for declaring the petitioner to be proclaimed offender has not been followed

in the present case.

3. Briefly stating the fact emerging from the record are that for the commission of offence punishable under Section 382 IPC, the above-mentioned FIR was lodged against the petitioner and two other persons. According to petitioner, after presentation of challan, he had been regularly appearing before the learned trial Court, and that in the year 2018, to earn his livelihood, he went abroad and could not return back to India due to circumstance beyond his control. According to petitioner, due to non-appearance his bail was cancelled and the warrants of arrest was issued. The petitioner has further alleged that subsequently, the learned trial Court issued proclamation against the petitioner on 07.02.2018 and declared the petitioner to be a proclaimed offender.

4. Heard.

5. It has been alleged by the petitioner that he was never served either with warrants of arrest, and that the proclamation was not made in accordance with law, and therefore, he was not aware of the proclamation. The petitioner in support of his stand has referred to the principles of law laid down by this Court in the case of *Mukesh Kumar Arora and Others v. State of Haryana and Another* 2023(2) Law Herald 1231; *Rajesh Kumar alias Billa v. State of Punjab* 2019(3) RCR (Criminal) 351; and *Sudo Mandal alias Diwarak Mandal v. State of Punjab* 2011(2) RCR (Criminal) 453.

6. In addition to above, it has been alleged by the petitioner that because of defective procedure adopted by the learned trial Court, while declaring the petitioner to be a proclaimed offender, the impugned order is liable to be set aside.

7. It has been contended on behalf of learned counsel for the petitioner that in the present case, the impugned order has been challenged on the ground that the necessary conditions enshrined under Section 82 Cr.P.C., for declaring the petitioner to be proclaimed offender, have not been complied with, and therefore, in view of the principles of law laid down in the case of ***Mukesh Kumar (supra)***, ***Rajesh Kumar alias Billa (supra)*** and ***Sudo Mandal alias Diwarak Mandal (supra)***, the above-mentioned order is not sustainable in the eyes of law.

8. Per contra, the learned State counsel has argued that in the present case, the petitioner is a person, who right from the very beginning, was aware of the pendency of criminal proceedings against him, and that the petitioner is the person, who, violated the condition of bail with impunity, and took the law in his own hands and went abroad without caring for the criminal proceedings pending against him. According to learned State counsel, the petitioner, right from the very beginning, is aware of the fact that criminal proceedings are going on against him, and therefore, he is not entitled to take a plea that he was not aware of the proceedings whereby he has been declared proclaimed offender.

9. The record has been perused carefully.

10. A perusal of the record shows that the petitioner has placed on record a copy of the statement of the Executing Constable recorded by the learned trial Court, before passing the order to declare the petitioner to be a proclaimed offender. The statement of the Executing Constable, namely Darshan Singh dated 22.02.2018 reads as under:-

“It is requested that the service proclamation has been done by reaching at Village Chottian Khurd. Reached at the

house of Yadwinder Singh son of Jaskaran Singh Village Chottian Khurd by taking alongwith Gurmeet Singh son of Gurnaib Singh, Village Chottian Khurd. Then his house was found locked and one copy of the publication has been pasted on the gate of their house and the second copy has been pasted on the gate of the school of the Village and third copy has been pasted in front of the Hon'ble Court.”

11. A bare perusal of the above-mentioned statement of the Executing Constable shows that the above-named Executing Constable had not publicly read the contents of proclamation. The order dated 27.03.2018 shows that on the basis of above-mentioned statement of the Executing Constable only, the petitioner has been declared proclaimed offender.

12. With regard to the above-mentioned procedure adopted by the Executing Constable, it is relevant to mention here that Section 82(2) Cr.P.C lays down that following steps are necessary to be taken before declaring a person to be a proclaimed person:-

“(2) The proclamation shall be published as follows:-

- (i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;*
- (b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;*
- (c) a copy thereof shall be affixed to some conspicuous part of the Court-house;*
- (ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.”*

13. With regard to mandatory nature of above mentioned procedure, it has been repeatedly observed by this Court, that the compliance of above mentioned provisions of Section 82(2) of Cr.P.C. is mandatory in nature. It has also been held that in case the above process is not adopted in letter and spirit, the order of declaring a person to be a proclaimed offender/proclaimed person is defective.

13. In this regard in the case of *Tirlok Chand Vs. State of Haryana 2023(2) Law Herald 1545*, this High Court observed that if a proclamation is issued for appearance of an accused on a fixed date before the Court, and on that date he is not declared proclaimed person, for subsequent date fresh proclamation should be issued. Similarly in the cases of *Jarnail Singh v. State of Punjab & Another (CRM-M-27944 of 2024, decided on 04.09.2024)* and *Gagandeep Singh v. State of Punjab (CRM-M-50704-2024, decided on 28.11.2024)*.

14. In addition to above, it is also relevant to mention here that the statement of executing Constable no where reflects that the proclamation was read over at a public place in the area where the petitioner ordinarily resides, as prescribed under Section 82(2)(i)(a) Cr.P.C. Thus the order declaring the above said person to be a proclaimed person/proclaimed offender is defective and not sustainable in the eyes of law. Similar view has been taken by this High Court in the cases of *Pal Singh Santa Singh v. State AIR 1955 Punjab 18* and *Tajinder Singh v. State of Punjab (CRM-M-21736-2024, decided on 07.05.2024)*. On this account also the above mentioned proclamation seems to be defective.

15. Taking into consideration the cumulative effect of the factors

that there was a defect in affixation of proclamation i.e. non-reading of summons in public place and secondly that a period of 30 days' period was not afforded to the petitioner to appear before the Court after affixation of proclamation, it is hereby held that the order passed by learned trial Court dated 27.03.2018 is defective and not sustainable in the eyes of law. Resultantly, the above mentioned order is hereby set aside. The petition is partly accepted, accordingly.

16. It is however made clear that this order is with regard to legality of proclamation only. Since the petitioner had jumped the bail and his bail has been cancelled and bonds have been forfeited to the State, the order of learned trial Court with regard to cancellation of bail and issuance of warrant of arrest against the petitioner shall remain intact, and therefore, in case the petitioner surrenders before the learned trial Court, the learned trial Court will be at liberty to take the petitioner into custody for procedure under Section 491 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (erstwhile Section 446 Cr.P.C). However in case the petitioner surrenders and file an application for bail the same be disposed of expeditiously, and in any case within a period of seven days.

(Surya Partap Singh)
Judge

October 30, 2025

"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No