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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-62575-2025 (O&M)

Date of decision: 11.11.2025

Satnam Singh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Amit Arora, Advocate
for the petitioner.

Ms. Ramta Chowdhary, DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of order dated 19.01.2024 (*wrongly mentioned as 09.01.2024 in the petition*), passed by the Court of learned Judicial Magistrate First Class, Tarn Taran in case arising out of FIR No. 67 dated 19.08.2023, registered under Section 21 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959 (Sections 21(c), 27-A and 29 of the NDPS Act added later on) at Police Station Sarai Amant Khan, District Tarn Taran, whereby the petitioner had been declared a proclaimed offender.
2. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in the aforementioned case. The petitioner was availing his legal remedies but the investigation agency approached the learned Magistrate for issuance of arrest warrants against him and ultimately he was declared a proclaimed offender. He was never served with any notice/warrants

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issued by the learned trial Court. More so, the petitioner had been declared a proclaimed offender without following the proper procedure prescribed under Section 82 of Cr.P.C. He is ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

3. Notice of motion.

4. Learned State counsel, who has advance notice of the petition, has resisted the petition by submitting that there is no infirmity in the impugned order and the petitioner has rightly been declared a proclaimed offender as he was running away from the process of Court. It is, thus, urged that the petition is liable to be dismissed.

5. This Court has heard the parties.

6. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section 82 Cr.P.C. as against the petitioner till the date of declaring him a proclaimed offender, I am of the considered opinion that the impugned order dated 09.01.2024 suffers from some illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

7. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 30.10.2023, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against him for 02.12.2023. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has not recorded its proper satisfaction that the petitioner had absconded or was

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concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence, which was in violation of the provisions of Section 82(1) of Cr.P.C. Reliance in this regard can be placed upon *Rohit Kumar Vs. State of Delhi : 2008 Crl. J. 2561*.

8. A perusal of the record reveals that a fresh proclamation was issued on 02.12.2023 for 02.02.2024 with a direction to the serving police official to execute the same before 05.01.2024 and to appear on 05.01.2024 for recording of his statement regarding execution of the proclamation. When the case was taken up on 05.01.2024, the serving police official stated that he had executed the proclamation on 14.12.2023. However, the case was adjourned to 19.01.2024 awaiting the appearance of the petitioner, instead of 02.02.2024, for which, the proclamation was issued and executed. Hence, there was no occasion for the petitioner to appear before the Court concerned on 19.01.2024. Hence, the procedure adopted by the learned trial Court was not in consonance with the provisions of Section 82 of Cr.P.C.

9. Further, a perusal of the order dated 05.01.2024 reveals that the proclamation was not publicly read over in some conspicuous place of the town or village in which the petitioner was supposed to be residing. As per Section 82 (2) of 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.

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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. Reliance in this regard can be placed upon *Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368*.

10. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 19.01.2024, passed by the Court of learned Judicial Magistrate First Class, Tarn Taran in case arising out of FIR No. 67 dated 19.08.2023, registered under Section 21 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959 (Sections 21(c), 27-A and 29 of the NDPS Act added later on) at Police Station Sarai Amant Khan, District Tarn Taran, whereby the petitioner had been declared a proclaimed offender, is quashed with all consequential proceedings arising therefrom.

11. However, the petitioner is directed to surrender before the Court concerned within a period of 15 days from today, subject to order for grant of anticipatory bail, if any passed on his petition to be filed under Section 482 of BNSS. In the absence of any order for grant of anticipatory bail and on such surrender, the petitioner shall be liable to be remanded to judicial custody subject to any order for grant of regular bail to be passed by the concerned Court in accordance with law.

12. Needless to observe that in case any application is filed before the concerned Court for grant of regular bail, then the concerned Court shall be bound to dispose of the same expeditiously and that nothing in this order shall be treated as expression of any opinion on merits so as to bind or influence the concerned Court in disposal of the same.

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13. Till the appearance of the petitioner before the learned trial Court, his arrest shall remain stayed.

14. It is made clear that in case the petitioner fails to appear before the learned trial Court within the stipulated time, this petition shall be deemed to be dismissed.

11.11.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>