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

**CRM-M-65073-2025 (O&M)
Date of Decision: 01.12.2025**

MOHINDER PARTAP SINGH

..... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

..... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. G.S. Madaan, Advocate with
Mr. A.S. Johal, Advocate and
Ms. Ishiqa Sharma, Advocate
for the petitioner.

Mr. Jatinder Pal Singh, Sr. DAG, Punjab.

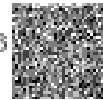
YASHVIR SINGH RATHOR, J. (Oral)

CRM-47881-2025

The applicant-petitioner through instant application under Section 151 CPC is seeking permission to place on record Annexure P-8, P-9 and Annexure P-10.

Allowed as prayed for.

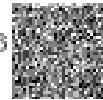
Annexure P-8, P-9 and Annexure P-10 are taken on record, subject to all just exceptions. Registry is directed to tag the same at an appropriate place.

CRM-M-65073-2025

1. Present petition has been instituted under Section 528 of BNNS, 2023 for quashing order dated 28.05.2024 (Annexure P-7) passed by learned Judicial Magistrate 1st Class, Jalandhar whereby the petitioner has been declared as a proclaimed person in case bearing NACT-3354-2023 dated 06.07.2023 titled as '***Jatinder Singh Vs. Mohinder Partap Singh etc.***' along with other consequential proceedings arising from the same.

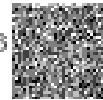
2. Both the parties have been heard and material placed on the file has been perused.

3. Learned counsel for the petitioner argued that petitioner has been wrongly declared as a proclaimed person. On perusal of the paper book, it is revealed that during the proceedings of case NACT-3354-2023 dated 06.07.2023 as afore-said, warrants of arrest against petitioner Mohinder Partap Singh were directed to be issued initially vide order dated 02.11.2023 and the petitioner surrendered on 06.11.2023. Thereafter, on 20.12.2023, upon application for exempting the petitioner from furnishing regular bail bonds and surety bonds, one more opportunity was granted for furnishing surety bonds and the case was adjourned for serving notice of accusation. On subsequent dates of hearing, application for exemption from personal appearance was filed on behalf of the petitioner which was allowed for that date only. Thereafter, warrant of arrest against the petitioner was again directed to be issued vide order dated 26.02.2024 for 21.03.2024. On 21.03.2024, it was observed that the petitioner is absconding or has concealed himself to avoid the execution of warrants and his presence cannot be secured



through warrants and proclamation was ordered to be issued for 28.05.2024 and Executing Constable was directed to appear for statement on 28.05.2024. On 28.05.2024, proclamation against petitioner was received back duly effected and report and statement of serving Constable was recorded. On the same date, petitioner was declared proclaimed person. Learned counsel lastly contended that the dispute was mediated by the councilors and settlement dated 31.03.2024 was entered by the petitioner. As per the settlement, the complainant was to withdraw the case and petitioner was obligated to make payments. Learned counsel contended that it is due to this reason that petitioner was unaware that he was declared proclaimed person.

4. Learned counsel further contended that as per order dated 28.05.2024, proclamation issued against accused was received back executed and statement of serving constable was recorded in which he stated that the accused was not present at the house and thereafter, he had pasted one copy of the proclamation at the given address, one copy at a conspicuous place in Mohalla and one copy at the notice Board of the Court. Moreover, the proclamation was not publicly read in some conspicuous place of the town where the accused resided and it was thus violation of provisions of Section 82(2)(i)(a) of Cr.P.C and on this score also, proclamation is invalid and a nullity and proceedings under Section 82 of Cr.P.C are thus liable to be quashed. In support of his contentions, learned counsel has placed reliance upon 2022(1) Law Herald 219 – **Rahul Dureja and another Vs. State of Punjab**, 2021(1) RCR (Criminal) 493 – **Harvinder Singh Vs. State of Haryana and another**, 2024(1) Law Herald 859 – **Mahender Kumar Vs. Housing**



**Development Finance Corporation Ltd., 2024(1) Law Herald 291 –
Ramandeep Singh Sangha @ Ramna Sangha Vs. State of Punjab,
and 2024(2) RCR (Criminal) 5- Sukhjinder Singh Vs. State of Punjab
and another.**

5. On the other hand, learned State counsel argued that petitioner could not be served when his non-bailable warrants were issued and thereafter, proclamation under Section 82 Cr.P.C was ordered to be issued and he was declared a proclaimed person. Learned State counsel contended that impugned order is well reasoned and speaking and does not call for interference and petition deserves to be dismissed.

6. Before proceeding further, orders dated 02.11.2023, 20.11.2023, 09.01.2024, 26.02.2024, 21.03.2024 and 28.05.2024 are being reproduced as under:-

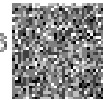
“Order dated 02.11.2023

Notice to accused received back served but he has not come present. Therefore in my considered view in order to expedite process of procuring the presence of accused, stern method is required to be followed. Accordingly, accused be summoned through NonBailable Warrants for 20.12.2023.

*Judicial Magistrate First Class-13
UID NO . PB00579*

Order dated 20.12.2023

Application for exempting the applicant/accused from furnishing regular bail bonds and surety bonds has been filed by the accused. It is stated in the application that applicant/accused is daily wager and is unable to furnish surety bonds in the shape of his or her immovable property and further request is made to exempt the applicant/accused



from furnishing regular bail bonds and surety bonds in the present case. Perusal of the record reveals that applicant/accused had surrendered before this court on 06.11.2023 and separate statement of accused was recorded to the effect that he shall furnish surety bonds on the next date of hearing. Taking into consideration the plight of the accused, only one opportunity is granted to the accused to furnish surety bonds and permanent exemption from furnishing surety bonds cannot be granted in the present case. Moreover, the present case is also adjourned for serving notice of accusation upon the accused. Now to come upon 09.01.2024.

*Judicial Magistrate First Class-13
UID NO . PB00579*

Order dated 09.01.2024

An application for exemption from personal appearance of accused has been filed. Heard. In view of the averments of the said application the same is allowed only for today.

On request, case stands adjourned to 01.02.2024 for serving notice of accusation upon the accused.

*Judicial Magistrate First Class-13
UID NO . PB00579*

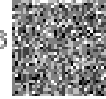
Order dated 26.02.2024

Today none appeared on behalf of accused. Accordingly, he be summoned through Non-bailable warrants for 21.03.2024.

*Judicial Magistrate First Class-13
UID NO . PB00579*

Order dated 21.03.2024

Non-Bailable warrants issued against the accused



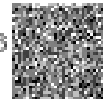
received back unexecuted. This court is satisfied that in order to procure the presence of the accused, coercive methods are required to be adopted. It appears that accused is deliberately evading in order to avoid execution of warrants issued against him. Therefore, the proclamation is required to be issued for the purpose of procuring the presence of the accused. Hence, proclamation against the accused be issued U/s 82 Cr.P.C. Tamili Police official is directed to make the publication on or before 10.04.2024 and the present case is adjourned to 28.05.2024, for awaiting presence of accused.

*Judicial Magistrate First Class-4
UID NO . PB00492*

Order dated 28.05.2024

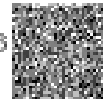
As per report of Ahlmad, proclamation against the accused has been received back duly effected on 20.04.2024. Report and statement of executing serving constable is on the file as Ex.P.1 and Ex.P2. Accused has not come present. Statutory period of 30 days have already been expired as publication has already been effected. So, the accused Mohinder Partap son of Bishan Singh, resident of House no.L 26, Upkar Nagar Jalandhar is proclaimed person with regard to present complaint. Necessary intimation be sent to the concerned police station. Since accused have been declared as proclaimed person, as such proceedings U/s 83 Cr.P.C. be initiated against the accused. Learned counsel for the complainant has orally submitted that earlier evidence lead in the preliminary evidence may be read as his evidence under Section 299 Cr.P.C., as such he does not intend to lead his fresh evidence U/s 299 Cr.P.C. Now to come upon 03.06.2024 for filing list of property.

*Judicial Magistrate First Class-4
UID NO . PB00492*



7. A Coordinate Bench of this Court while deciding CRM-M-41656- 2023 titled ***Pardeep Kumar Vs. State of Haryana*** vide judgment dated 23.8.2023 has held that before issuance of proclamation under Section 82 of Cr.P.C., the Court must deliberate on its previous efforts to secure presence of the accused through other legally permissible means. These efforts encompass issuance of summons and the execution of bailable and/or non-bailable warrants against the accused. It is incumbent upon the Court to ascertain that individual in question has indeed absconded or is concealing himself to evade execution of warrants of arrest. It has been further held that phrase, ‘reasons to believe’ as articulated in Section 82 of Cr.P.C. signifies that the Court must derive its belief from the available evidence and material that the concerned person has absconded or is concealing himself to evade the execution of warrants of arrest. It has been further held that once proclamation is issued, it must be set forth in the proclamation as to where and when the concerned individual must present himself. A designated location and time must be stipulated. Importantly, the specific date and time for appearance should not be less than 30 days from the date of publication of the proclamation.

8. A perusal of order dated 21.03.2024 shows that the warrant of arrest issued against the accused was received back unexecuted but the reasons as to why the same have not been executed is not mentioned in any of the order. On the same date, the Court recorded its satisfaction that the accused cannot be served through non-bailable warrants and ordered issuance of proclamation under Section 82 Cr.P.C. However, no satisfaction was recorded by the trial Magistrate that accused has either



absconded or is concealing himself to evade the warrants and that he cannot be served in ordinary manner and without recording satisfaction to this effect, the proceedings under Section 82 Cr.P.C. could not have been initiated against the accused which is a grave illegality and proper procedure has not been followed.

9. On 28.05.2024, the proclamation was received back executed. In his statement, serving constable stated that he had visited the house of accused but he was not found present there and thereafter, he pasted one copy of proclamation at the given address one copy at conspicuous place in that Mohalla and one copy at the notice board of the Court. However, the proclamation was not read publicly at some conspicuous place of the town, where the accused ordinarily resided. A Coordinate Bench of this Court in ***Rahul Dureja's case (supra)***, has held that if there is non-compliance of mandatory provisions of Section 82(2) (i)(a) of Cr.P.C. and proclamation is not read publicly in same conspicuous place of the town or village where the accused ordinarily resides, the accused is deprived of the knowledge of proclamation and on this score, the proclamation notice is liable to be quashed. In ***Harvinder Singh's case (supra)***, it has been further held that if proclamation is not read publicly in the village where accused resided, it is not an irregularity but it renders proclamation and subsequent proceedings as nullity. On this score also, the proceedings initiated under Section 82 Cr.P.C. against the petitioner are invalid.

10. As a result of aforesaid discussion, I am of the considered opinion that proper procedure has not been followed by the trial Court while declaring petitioner a proclaimed person and the impugned order,



thus, suffers from material irregularities and illegalities and the same is, thus, not sustainable and is liable to be set aside and accordingly, the present petition is accepted and the impugned order dated 28.05.2024 (Annexure P-7), vide which, the petitioner was declared proclaimed person is set aside.

11. Pending misc. applications(s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

01.12.2025
Ali

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