



S. No.119

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CRM-M-67666 of 2025  
Date of Decision:03.12.2025

Pooja Kumar

.....Petitioner

Vs.

State of Haryana and another

.....Respondent

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Ms. Yogita Soni, Advocate for the petitioner.

Ms. Jasmine Gill, AAG, Haryana.

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**Yashvir Singh Rathor, J. (Oral)**

1. Present petition has been instituted under Section 482 Cr.P.C/528 of BNSS, 2023 for setting aside order dated 27.05.2025 (Annexure P.3) as well as impugned order dated 22.09.2025 (Annexure P.4) passed by learned JMIC, Gurugram, whereby the petitioner has been declared as a proclaimed person in case No.NACT-10976 of 2024 dated 18.05.2024 titled '**Balkishan Vs. Pooja Kumar**', under Section 138 of Negotiable Instruments Act.

2. Upon notice, the State Counsel has appeared. Learned counsel for 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. She never received any summons from the trial Court and serious efforts were not made by the trial Court to secure his presence. Learned counsel for the petitioner contended that petitioner was granted bail and was regularly appearing before the trial Court but on 01.03.2025, she



could not appear and the Id. JMIC, Gurugram has cancelled his bail and forfeited the bonds to State and ordered to summon him through non-bailable warrants for 27.05.2025. As such, instead of cancelling the bail on account of his non-appearance, the Court could have issued notice or bailable warrants to secure his presence instead of passing the punitive order of cancellation of bail or could have adjourned the complaint. Moreover, bail could have been cancelled and arrest warrants could have been issued only after recording a satisfaction that accused has wilfully absented with cogent reasons reflecting the necessity of such a stringent course. Thereafter, on 27.05.2025, non bailable warrants issued against her was received back unexecuted and by simply recording that the Court is satisfied that presence of accused cannot be secured through ordinary process and her presence be secured through proclamation under Section 82 Cr.P.C for 29.09.2025 and serving constable was summoned to make statement on 26.08.2025. 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 the order. After that, 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 herself to evade the warrants and that she 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.

4. Learned counsel for the petitioner next contended that the proclamation was ordered to be issued for 29.09.2025 vide order dated 27.05.2025 but on 22.09.2025, petitioner was declared a Proclaimed Person. Learned counsel



contended that no proclamation had been issued against the accused for 22.09.2025 and as such, she did not have any knowledge that she was required to appear before the Court on 22.09.2025 and impugned order dated 22.09.2025, vide which she has been declared Proclaimed Person is thus illegal and nonest.

5. On the other hand, learned State Counsel has argued that the 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 she was declared Proclaimed Person. Learned State Counsel has contended that the impugned orders are well reasoned and speaking and does not call for any interference and petition deserves to be dismissed.

6. Before proceeding further, relevant orders dated 01.03.2025, 27.05.2025 and 22.09.2025 are reproduced as under:-

**“Order dated 01.03.2025:**

Case called several times since morning but neither accused nor anyone on behalf of accused appeared. It is already 03:30 PM. Waited sufficiently, further wait is not justified. Therefore, bail of accused Pooja Kumar is hereby canceled and bail bond and surety bond are forfeited to State. Let, presence of accused Pooja Kumar be secured through non-bailable warrants for 27.05.2025.

Date of Order: 01.03.2025

JMFC/ Gurugram  
(UID No.HR0539)

**Order dated 27.05.2025:**



Non-bailable warrants issued against accused are not received back unexecuted. Perusal of order dated 18.12.2024, reflects that accused marked his presence through his counsel. Despite well aware about the pendency of the case and having notice and knowledge regarding the present case, he is intentionally avoiding the service. Keeping in view the aforesaid facts and circumstances, the court is satisfied that presence of accused cannot be secured through ordinary process. Let, presence of accused be secured through proclamation under Section 82 Cr.P.C for 29.09.2025.

Ahlmad is directed to issue proclamation forthwith and a note on the same be made that proclamation be executed on or before 26.08.2025 is fixed for recording statement of executing official and return of proclamation. Accused is directed to appear before the court on 29.09.2025.

Date of Order: 27.05.2025

JMFC/ Gurugram  
(UID No.HR0539)

**Order dated 22.09.2025:**

Today case was fixed for presence of accused. Case called several times but no one has come present on behalf of the accused. It is already 02:30 P.M. Further wait is not justified. 30 days from publication- execution of proclamation under Section 82 Cr.P.C (84 BNSS) expired. Despite passing of 30 days from execution of proclamation, accused did not turn up. Hence, this court is satisfied that accused has absconded. Therefore, accused Pooja Kumar wife of Rajesh Kumar, resident of 222/16, Nai Basti near Sohna Chowk,



Gurugram is declared proclaimed person. Necessary intimation in this regard be sent to PS Shivaji Nagar to initiate proceedings against the accused u/s 209 BNS.

Vide separately recorded statement, Ld. Counsel for complainant has stated that preliminary evidence already recorded, be read in his evidence under section 335 BNSS. It is also stated that he cannot furnish list of property of accused persons for attachment. Heard.

Since, Ld. Counsel for Complainant could not furnish list of properties of accused for initiating proceedings under Section 83 Cr.P.C. (85 BNSS). Resultantly, file be consigned to the record room with a red ink note that no part of the file be destroyed as the same shall be summoned as and when accused is/are arrested and produced by the police or themselves/ himself surrendered in the court.

Date of Order: 22.09.2025

JMFC/ Gurugram  
(UID No.HR0539)”

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 ofailable and/or non-ailable 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 27.05.2025 shows that the warrant of arrest issued against the accused was received back unexecuted but the reasons as to why the same has not been executed is not mentioned in the order. After that, 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 herself to evade the warrants and that she 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. Besides this, the proclamation was finally issued for 29.09.2025 and the statement of serving constable was ordered to be recorded on or before 26.08.2025 and the case was adjourned to 29.09.2025 for awaiting appearance of the accused. However, on 22.09.2025, the accused was declared a proclaimed person. However, no proclamation had been issued for 22.09.2025, which infact, had been issued for 29.09.2025 . In this manner, accused did not have any knowledge that she was required to appear before the Court on 22.09.2025, as no



proclamation had been issued against her for that date and she was, thus, misled and proper procedure, thus, has not been followed by not mentioning the designated location, date and time, where she was supposed to appear.

9. 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 orders, thus, suffer 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 orders dated 27.05.2025 (Annexure P.3) and 22.09.2025 (Annexure P.4) are set aside.

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

(Yashvir Singh Rathor)  
Judge

December 03, 2025  
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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |