

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

131

CRM-M-2194-2026 (O&M)

Date of decision: 17.02.2026

Bhupinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Ritesh Pandey, Advocate for the petitioner.

AARADHNA SAWHNEY, J (ORAL)**CRM-7176-2026**

Prayer in the instant application is for placing on record zimni orders passed during trial as Annexure P.4.

Allowed, as prayed for, subject to all just exceptions.

CRM-7177-2026

Prayer in the instant application is for grant of exemption from filing certified copy of zimni orders as Annexure P.4.

Allowed, as prayed for.

Main case

1. Petitioner, an accused in case FIR No.31 dated 02.04.2020 registered against him for commission of offence punishable under Sections 188,269,186,506 IPC registered at P.S Dera Baba Nanak, District Batala, has assailed order dated 17.01.2023 passed by learned JMIC, Batala vide which he has been declared as proclaimed person.

2. Twofold submissions have been advanced by learned counsel for the petitioner, firstly that learned trial Magistrate erred in law, while declaring the petitioner as proclaimed person, inasmuch as on bare perusal of statement of Executing Constable, appended at page 10 of the application bearing CRM-7176-2026, it is clear that all requirements of Sub Section (2) of Section 82 Cr.P.C (84 of BNSS) were not complied with, inasmuch as the Executing Constable did not



where the accused was residing. Thus, procedural requirements of aforementioned Section were not complied with, therefore, the same deserves to be set aside. The second leg of submission raised by learned counsel for petitioner is that some of other persons, who were arrayed as accused in the aforesaid FIR and who also faced the trial, have since been convicted and sentenced to pay fine of Rs.500/- each vide order dated 13.10.2022 passed by the learned JMIC, Batala. Petitioner is willing to surrender before the trial Court and join the proceedings.

3. 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 under:

(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 CrI. 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 CrI. 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 CrI 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).

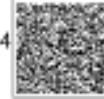
(v) Where the period between issuance and publication of the proclamation and the specified date of hearing is less than thirty days, the accused cannot be declared a proclaimed person/offender and the proclamation has to be issued and published again. (See Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (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).

4. Reverting back to the facts of the case in hand, it is, thus, clear that the Executing Constable did not adhere to the procedure so prescribed under Sub Section (2) of Section 82 Cr.P.C, when he visited the residence of petitioner. From the statement of the Constable, it can be inferred that he only affixed copy of the proclamation at the door of the house of the accused, a copy at public place and a copy on the notice board of the court. Admittedly, he did not read the publication at some conspicuous place of the town or village where the petitioner resides.

In view of the discussion made hereinabove, the impugned order dated 17.01.2023, whereby the petitioner was declared Proclaimed Person, is set aside.

5. Present petition is disposed of with a direction to the petitioner to surrender before the trial Court concerned to face the trial within a period of ten 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. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

6. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

17.02.2026
manoj

(AARADHNA SAWHNEY)
JUDGE