



CRM-M-5405-2026

1

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

157

CRM-M-5405-2026

Raman Kumar

...Petitioner

V/s

State of Punjab

...Respondent

Date of decision: 18.05.2026**Date of Uploading : 18.05.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

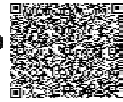
Present: Mr. Paramjit Singh Bal, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of the order dated 14.06.2023 passed by the learned Judicial Magistrate 1st Class, Khanna in case titled "State Vs. Surjit Singh" arising out of FIR No.278 dated 28.10.2017 registered under Sections 61/1/14 of the Excise Act at Police Station City Khanna, Police District Khanna, District Ludhiana, whereby the petitioner has been declared as a proclaimed person.

2. As per the allegations levelled in the FIR, recovery of 27 boxes of country made liquor and English liquor, each containing 12 bottles, were allegedly effected from the possession of the petitioner and co-accused while they were travelling in car bearing registration No. PB-32-P-9100. After presentation of challan, the petitioner approached the learned Additional Sessions Judge, Ludhiana seeking concession of anticipatory bail and vide order dated 08.12.2018, the same has been granted. Pursuant thereto, the petitioner furnished bail bonds before the learned Court below on 20.12.2018 and continued to appear regularly in the proceedings.



Thereafter, on account of the Covid-19 pandemic, the functioning of Courts remained disrupted and the matter was adjourned from time to time. As per the petitioner, after normal functioning resumed, he along with his counsel appeared before the learned Court below. However, on 26.08.2022, due to alleged miscommunication with his counsel, the petitioner could not appear before the Court below. The case was thereafter adjourned to 22.09.2022 and subsequently to 19.10.2022. Since the petitioner failed to appear on 19.10.2022, his non-bailable warrants were issued. Subsequently, the matter was adjourned on various dates including 01.12.2022, 06.01.2023, 20.02.2023 and 17.03.2023, however, the non-bailable warrants were received back unexecuted. Thereafter, vide order dated 19.04.2023, the learned Court below initiated the proceedings under Section 82 Cr.P.C. and issued proclamation against the petitioner for his appearance on 29.05.2023. On 29.05.2023, statement of the serving official namely ASI Sukhwinder Singh was recorded, wherein he stated that the proclamation had been affixed at the address of the petitioner on 04.05.2023. Since the statutory period of 30 days had not elapsed from the date of publication of proclamation till the date fixed for appearance, the case was adjourned to 14.06.2023. However, vide impugned order dated 14.06.2023, the petitioner was declared proclaimed person on the basis of the same proclamation proceedings.

3. Learned counsel for the petitioner has iterated that the petitioner has been granted the concession of anticipatory bail by the Court below i.e. Additional Sessions Judge, Ludhiana vide order dated 08.12.2018 and thereafter he duly furnished his bail bonds before the Court below on 20.12.2018. Learned counsel has further iterated that, thereafter, the



petitioner has been regularly appearing before the Court below and only on account of the Covid-19 situation and subsequent miscommunication with the counsel, he could not appear on certain dates which resulted in issuance of non-bailable warrants. It has been further contended that vide order dated 19.04.2023, the proclamation proceedings under Section 82 Cr.P.C. were initiated against the petitioner for 29.05.2023. According to learned counsel, on 29.05.2023, the statement of the serving official namely ASI Sukhwinder Singh was recorded, who specifically stated that the proclamation has been effected on 04.05.2023 by affixing one copy thereof at the address of the petitioner. It has been further contended that from 04.05.2023 till 29.05.2023, the statutory period of 30 days has not expired and, therefore, the mandatory requirement contemplated under Section 82 Cr.P.C. was not fulfilled. Furthermore, instead of issuing fresh proclamation after the expiry of the mandatory statutory period, the Court below has adjourned the matter to 14.06.2023 and, thereafter, declared the petitioner as proclaimed person on the basis of the same proclamation which procedure is contrary to settled law and amounts to gross abuse of process of law. To buttress his arguments, learned counsel has placed reliance on the judgment of this Court in CRM-M-41656-2023 titled as “***Pardeep Kumar Vs. State of Punjab and another***” decided on 23.08.2023, wherein detailed guidelines have been issued with regard to the procedure for declaring a person as proclaimed offender/proclaimed person. Learned counsel has further submitted that the Court below has failed to record any satisfaction that the petitioner has absconded or was concealing himself which is a *sine qua non* for invoking proclamation proceedings. Accordingly, the order declaring



the petitioner as a proclaimed person is unsustainable in the eyes of law and deserves to be quashed.

4. *Per contra*, learned State counsel has opposed the instant petition and submitted that the petitioner has failed to appear before the Court below despite issuance of non-bailable warrants and, therefore, the Court below has rightly proceeded against him under Section 82 Cr.P.C. According to learned State counsel, the petitioner has intentionally avoided the proceedings and hence the impugned order does not call for interference by this Court in exercise of its inherent jurisdiction.

5. I have heard the learned counsel for the rival parties and carefully perused the record of the case.

6. The law is well settled that no person can be declared a proclaimed offender/person unless the procedure prescribed under Section 82 of the Code of Criminal Procedure, 1973 is meticulously adhered to. It is trite law that the provisions of Section 82 are mandatory in nature, and any non-compliance thereof vitiates the entire proceedings. A perusal of the record reflects that the proclamation proceedings have been initiated against the petitioner vide order dated 19.04.2023. Thereafter on 29.05.2023, the statement of the serving official i.e. ASI Sukhwinder Singh has been recorded who categorically stated that he has affixed a copy of the proclamation on 04.05.2023 at the address mentioned therein. Thus, admittedly only 25 days have elapsed between the date of publication of proclamation and the date fixed for appearance before the Court. Section 82 of Cr.P.C. mandates that the Court shall publish a written proclamation requiring the accused to appear at a specified place and time not less than 30 days from the date of publishing such proclamation. The requirement of 30



days is mandatory in nature and not a mere procedural formality. In the present case, once the Court below itself has noticed on 29.05.2023 that the statutory period has not expired, the only course available was to issue a fresh proclamation in accordance with the law. However, instead of adopting such procedure, the Court below has adjourned the matter to 14.06.2023 and subsequently declared the petitioner as proclaimed person on the basis of the same proclamation which admittedly suffered from non-compliance of mandatory statutory requirement. It is well settled that declaration of a person has serious civil and criminal consequences and, therefore, strict compliance with statutory provisions is mandatory. Any order passed without such compliance is liable to be set-aside.

7. This Court finds the course adopted by the Court below is antithesis to the provisions of Section 82 of the Code of Criminal Procedure, 1973. The Court below has committed illegality by issuing the said proclamation under Section 82 of the Criminal Procedure Code, 1973, without complying the mandatory requirements of law. The learned Court below, while declaring the petitioner as proclaimed person, failed to satisfy itself regarding due execution of proclamation and proceeded in a mechanical manner. Such an order being violative of mandatory provisions of law, cannot be sustained. Section 82 of the Criminal Procedure Code, 1973 reads as under:

“82. Proclamation for person absconding. - (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(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.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this Section have been complied with, and that the proclamation was published on such day.

[(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under Sections 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459, or 460 of the Indian Penal Code (45 of 1860), and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).]”

8. A Coordinate Bench of this Court while dealing with invocation of the provision of Section 82 of the Code of Criminal Procedure, against an accused in the case of ‘**Sonu v. State of Haryana, 2021(1) RCR (Criminal) 319**’, held as under:

“9. The essential requirements of section 82 of the Cr.P.C., 1973 for issuance and publication of proclamation against an absconder and declaring him as proclaimed person/offender may be summarized 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 v. 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., 1973. (See Rohit Kumar v. 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 v. Emperor : AIR 1943 Patna 366 and Devender Singh Negi v. 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 v. State of Mysore : 1969 CriLJ 826 and Shokat Ali v. 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 v. State of Punjab (P&H) : 2015 (8) RCR (CRIMINAL) 166 and Ashok Kumar v. 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., 1973. 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., 1973 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 v. 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 Courthouse 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.

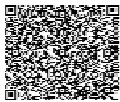
(vii) Statement of the serving officer has to be recorded by the Court as to the date and mode of publication of the proclamation. (See Birad Dan v. State: 1958 CriLJ 965).

(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., 1973. 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 v. State: 1958 CriLJ 965).

(xi) The conditions specified in section 82(2) of the Cr.P.C., 1973 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 v. State of U.P. and another: 1994 CriLJ 1783 and Pal Singh v. The State: 1955 CriLJ 318)."

9. The provisions of Section 82 of the Code of Criminal Procedure having serious ramifications *qua* the right of the accused concerning his presence in the criminal trial proceedings ought not be and cannot be invoked in casual and cavalier manner. The requirement of expiration of 30 days from the date of publication, as embodied in Section 82 of the Code of Criminal Procedure, is to be scrupulously complied with. Non-adherence to said requirement while declaring the accused as proclaimed person vitiates the proclamation proceedings initiated against the accused.

10. Hence, no useful purpose would be served by keeping the criminal proceedings pending against the petitioner. It is, therefore, an



BNSS/Section 482 of Cr.P.C. and to bring to an end the criminal proceedings initiated in the light of the FIR *ibid* against the petitioner.

11. In view of the prevenient ratiocination, it is ordained thus:
- (i) The present petition is allowed and the impugned order dated 14.06.2023 passed by the learned Judicial Magistrate 1st Class, Khanna declaring the petitioner as proclaimed person is hereby quashed.
 - (ii) Nothing observed herein shall be construed as an expression of opinion on the merits of the case.
 - (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

May 18, 2026
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No