



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

CRM-M-8131-2024 (O&M)

Date of Decision: 24.03.2026

Ankit

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S. Shekhawat

Present: Mr. P.S Ahluwalia, Sr. Advocate with
Ms. Bhavi Kapoor, Advocate
Mr. Dev Kumar Ahlmat, Advocate
for the petitioner.

Mr. Parmod Kumar, AAG, Haryana.

N.S. Shekhawat J.

1. The petitioner has filed the present petition under Section 482 of Cr.P.C with a prayer to set aside the impugned order dated 04.10.2022 (Annexure P-2) passed by the Court of Additional Sessions Judge, Jhajjar, whereby the petitioner was declared as a proclaimed offender in a case arising out of FIR No. 252, dated 03.09.2012, under Sections 364, 302, 201, 216, 218 r/w Section 34 of IPC and Section 25 of Arms Act, registered at Police Station Beri, Jhajjar (Annexure P-1).

2. Learned senior counsel appearing on behalf of the petitioner submits that the petitioner was falsely involved in abovementioned case, which was registered on the basis of the complaint moved by Narender, complainant. He further submits that after being declared as proclaimed offender, another FIR No. 42 dated 22.02.2023, under Section 174-A of IPC, Police Station Beri, District Jhajjar was also ordered to be registered against the petitioner.

3. Learned senior counsel further argues that in the present case, the



petitioner was earlier granted bail and was regularly appearing before the Trial Court for almost five years. However, some other criminal case was also ordered to be registered against him and his bail was cancelled, due to his non-appearance. Ultimately, vide order dated 09.08.2022 (Annexure P-5), the Trial Court issued the proclamation process against the petitioner under Section 82/83 Cr.P.C and the proclamation report was awaited for 19.09.2022. It was ordered that the Executing Officer shall also appear before the Court on the date fixed along with the proclamation report. On the next date i.e.19.09.2022, the Court recorded the statement of ASI Bhupesh i.e. the Executing Official and as per the report on the proclamation and statement of Executing official, the proclamation was published on 19.08.2022. Consequently, the mandatory period of 30 days had not expired on 19.09.2022 and the case was adjourned to 04.10.2022 for the presence of the present petitioner under Section 82/83 Cr.P.C. Learned senior counsel further submits that the order (Annexure P-6) dated 19.09.2022 as well as the impugned order dated 04.10.2022 (Annexure P-2) were not in consonance with the mandatory provisions of the Section 82 of Cr.P.C. In fact, the Court was required to give a period of not less than 30 days from the date of publication of proclamation to the date fixed before the Trial Court requiring the presence of the accused under Section 82(1) Cr.P.C. In the present case, the period of 30 days had not expired on 19.09.2022 and the Trial Court instead of issuing a fresh proclamation, simply opted to adjourn the matter for securing the presence of the petitioner. Thus, the impugned order dated 04.10.2022 (Annexure P-2) and all other consequential proceedings arising therefrom liable to be quashed by this Court.

4. On the other hand, learned State counsel has vehemently opposed



the submissions made by learned counsel for the petitioner on the ground that the petitioner had intentionally not appeared before the Trial Court for several months and is not entitled for any relief. It was submitted that the petitioner had the knowledge of pendency of the proceedings against him, however, he chose not to appear before the Trial Court and the petition is liable to be dismissed.

5. Section 82 of the Cr.P.C., 1973 which provides for publication of proclamation against person absconding, 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 section 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 subsection (1).”

6. It has been held by this Court in the matter of **Sonu Vs. State of Haryana 2021 (1) RCR (Criminal)319 as follows:-**

9.The essential requirements of Section 82 of the Cr.P.C. 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 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 CriLJ 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 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 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***).

(ix) 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***).

7. In the present case, vide order dated 09.08.2022 (Annexure P-5), the proclamation under Section 82 Cr.P.C against the petitioner was issued for



19.09.2022. On 19.09.2022, the statement of Executing Official was recorded and he stated that he had published the proclamation on 19.08.2022. However, the mandatory period of 30 days had not expired, consequently, the case was adjourned to 04.10.2022 for the presence of the petitioner and apparently there was non-compliance of the mandatory procedure as prescribed by Section 82 Cr.P.C. Consequently, the proclamation and subsequent proceedings were in violation of the law laid down by this Court.

8. As a sequel of above discussion, the impugned order dated 04.10.2022 (Annexure P-2) passed by the Court of Additional Sessions Judge, Jhajjar as well as FIR No.42 dated 22.02.2023, under Section 174-A of IPC, Police Station Beri, District Jhajjar (Annexure P-4) and all subsequent proceedings arising out therefrom are ordered to be quashed.

9. The petitioner is directed to surrender before the Trial Court/Area Magistrate/Duty Magistrate within a period of four weeks from the receipt of certified copy of this order.

10. The petitioner was already on bail in the main case, he shall be admitted to bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned Court.

11. Still further, the Trial Court is directed to conclude the trial expeditiously, in accordance with law.

12. Petition stands disposed off in above terms.

24.03.2026
hitesh

(N.S.SHEKHAWAT)
JUDGE

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