

2026.PHHC:041951



188

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

**CRM-M-14267-2026
Date of Decision:16.03.2026**

Som Pal ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Fateh Saini, Advocate, for the petitioner.
Mr. Vishal Singh, AAG, Haryana.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner, an accused in case FIR No.970 dated 06.09.2019 registered u/s 188 IPC and Section 61 of Excise Act, 1914 at Police Station City TSR, Distt. Kurukshetra has prayed for setting aside the order dated 15.07.2024 (Annexure P-5) passed by the learned JMIC, Kurukshetra vide which he (P) was declared a 'Proclaimed Person'.
2. The first leg of submission raised by learned counsel for the petitioner is that petitioner had left for the foreign land, which fact had come to the notice of the Executing Constable when he had visited the residence of the petitioner to paste the copy of the proclamation. In the light of the same, proceedings u/s 105 Cr.P.C. (now Section 110 BNS) ought to have been initiated, however, learned trial Court without their being any cogent material available on record, wrongly presumed that the accused is intentionally avoiding to appear in the Court and initiated Proclamation Proceedings u/s 82 Cr.P.C. (now Section 84 BNSS) for 20.08.2024.

The second leg of submission raised by learned counsel for the

petitioner is that offence being bailable petitioner is willing to surrender before the concerned Court within a period of 15 days from today.

In the view of the above, learned counsel for the petitioner further submits that proclamation order dated 15.07.2024 being not in 'sync' with law, is illegal.

3. Heard. Documents on record perused.

4. Before proceeding further, let us carefully go through Section 105 Cr.P.C., which reads as under:-

“105. Reciprocal arrangements regarding processes.

(1) Where a Court in the territories to which this Code extends (hereafter in this section referred to as the said territories) desires that

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or

(d) a search-warrant,

[issued by it shall be served or executed at any place, -

(i) xxxxxxxx

(ii) in any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation

to criminal matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and sent to such authority for transmission, as the Central Government may, by notification, specify in this behalf;]

(2) Where a Court in the said territories has received for service or execution -

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

(c) a summons to any person requiring him to attend and produce a document or other thing or to produce it, or

(d) a search-warrant,

[issued by -

(i) a Court in any State or are in India outside the said territories;

(ii) a Court, Judge or Magistrate in a contracting State, it shall cause the same to be served or executed] as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where -

(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by Sections 80 and 81;

(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by Section 101 :

[Provided that in a case where a summons or search warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall be forwarded to the Court issuing the summons or search warrant through such authority as the Central Government may, by notification, specify in this behalf.]”

In the case in hand, petitioner had left for the foreign land, this fact had come to the notice of the Executing Constable when he had visited the residence of the petitioner to paste the copy of the proclamation. In this eventuality, trial Court should have adhered to the procedure so prescribed under Section 105 (1)(ii) Cr.P.C., rather Proclamation Proceedings u/s 82 Cr.P.C. were initiated to procure presence of petitioner. Furthermore, without

there being any material on record, to conclude that despite being aware of the pendency of proceedings, petitioner is deliberately avoiding to appear in the Court, the initiation of proclamation proceedings were unwarranted.

For want of compliance of the procedure so mentioned in Code of Criminal Procedure, proclamation order dated 15.07.2024 is hereby set aside. In view of the prayer made by learned counsel, coupled with the fact that the petitioner is ready and willing to surrender before the learned trial Court/Illaq Magistrate concerned, as also that, the underlying object behind declaring any person a “Proclaimed Person/Offender” is to secure his presence for facing trial, this Court deems it appropriate to grant an opportunity to the petitioner to surrender before the learned trial Court/Illaq Magistrate concerned within a period of 15 days from today. In case, he surrenders before the Court concerned, he be released on furnishing fresh bail bonds/surety bonds to the satisfaction of the trial Court.

He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

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.

16.03.2026
Parveen kumar

(AARADHNA SAWHNEY)
JUDGE

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