

2026.PHHC.049478



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

191

CRM-M-12288-2026 (O & M)
Date of decision: 30.03.2026

Harnazar Singh @ Nozy

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vipin Mahajan, Sr. Advocate with
Ms. Gagandeep Kaur Kahlon, Advocate for the petitioner.

AMAN CHAUDHARY, J. (ORAL)

1. The present petition has been filed under Section 528 BNSS for quashing of FIR No.81 dated 30.06.1999, registered at Police Station Ghuman, Police District Batala, District Gurdaspur, Annexure P1; impugned order dated 30.11.2005, Annexure P5, passed by the Ld. Sub Divisional Judicial Magistrate, Batala, whereby the petitioner has been declared as proclaimed offender.

2. Learned Senior counsel submits that the petitioner was initially declared innocent, whereafter he went abroad in the year 1999, for which his passport, Annexure P9, has been referred and summoned subsequently under Section 319 Cr.P.C. by the trial Court vide order dated 03.05.2001, Annexure P4. During the interregnum, his co-accused have been acquitted vide judgments dated 06.08.2013 & 19.11.2015. He was declared proclaimed offender in another case wherein he was directed to surrender before the trial Court, which he did. He has been declared proclaimed offender vide order dated 30.11.2005 without the Court recording its subjective satisfaction that he had absconded and concealing himself as is the requirement under Section 82 Cr.P.C. Thus, the procedure

mandated under Sections 41, 105 and 82 Cr.P.C. had not been followed. A further reference is made to a Notification issued by the Government of India Ministry of Home Affairs, IS Division-II:Legal Cell New Delhi, dated the 11th Feb, 2009, laying down comprehensive guidelines in this regard of reciprocal arrangements to be made by Central Government with the Foreign Governments with regard to the service of summons/warrants/judicial processes. The Ministry of Home Affairs has entered into Mutual Legal Assistance Treaty/Agreements with 22 countries which provide for serving of documents. Thus, the proclamation proceedings being in violation thereof are liable to be set aside, however, he is ready and willing to join the proceedings and surrender before the trial Court for which he seeks only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate.

3. Notice of motion.

4. At the asking of the Court, Mr. Manipal Singh Atwal, DAG, Punjab, accepts notice on behalf of the respondent-State and submits that the order passed against the petitioner is legal and valid on account of the fact that he had absented from the proceedings before the trial Court without any just cause.

5. No order prejudicial to the rights of the private respondent is being proposed to be passed by this Court, thus there is no requirement of effecting service upon him.

6. Heard.

7. In **Gurbir Singh Mundi vs. State of Punjab and another**, CRM-M-49283-2021, decided on 16.12.2021, it was held that provisions

of Section 82(2) Cr.PC. are to be mandatorily complied with cumulatively and not alternatively. The Court had quashed the order declaring the petitioner therein as proclaimed person on the ground that declaration was not read publicly in some conspicuous place of town or village, in which the accused ordinarily resides.

8. In **Sonu vs. State of Haryana**, 2021 (1) RCR (Crl.) 319, it was held that any non-compliance in the procedure prescribed in declaring a proclaimed person, cannot be treated as an irregularity but the same renders such proceedings a nullity.

9. This Court in **Satvir Singh vs. State of Punjab and another**, CRM-M-27621-2025, 20.05.2025, while relying on **Rohit Kumar vs. State of Delhi 2008 Crl. J. 2561**, has held that Court must be prima facie satisfied that the person absconded or is concealed himself so that warrant of arrest, previously issued, cannot be executed, despite due diligence.

10. In **Jasbir Kaur vs. State of Punjab and another**, CRM-M-25115-2022, decided on 2.6.2022, since the petitioner therein was a Non Indian Resident residing in Canada and proclamation proceedings had been initiated while she was not in India, as such, the order of proclamation was set aside.

11. Similarly, in **Jaswant Singh vs. State of Punjab and another**, CRM-M-32011-2018, petition was allowed on 6.2.2020, noticing the submission made by the counsel for the petitioner relying on the photocopy of the passport (Annexure A-1) that he was in Italy at the time of registration of FIR 29.10.2009, as well as, on the day, when he was declared proclaimed offender vide order dated 28.4.2014 and even on the date of passing of the above order.

12. The very purpose of issuance of summons, warrants etc. is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

13. Reverting to the facts of the present case inasmuch as it was because the petitioner went abroad, as initially he was declared innocent and the procedure as envisaged by the Code not followed in letter and spirit, he could not be served and as such, his explanation for absence appears to be justified.

14. Considering the fact that the absence of the petitioner was not wilful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help in expediting the trial. This Court in light of the judgments referred to above being applicable to the instant case, finds that the ends of justice would be adequately met if the present petition is allowed.

15. In view of the afore-mentioned judgments and the facts and circumstances of the case, the impugned order dated 30.11.2005, Annexure P-5, is set aside.

16. He is directed to surrender before the trial Court on or before 15.04.2026 and furnish bail bonds subject to its satisfaction and deposit costs of Rs.15,000/- to be deposited with Sai Aasra Paraplegic Rehab Centre (Kotak Mahindra Bank, Branch Sector 27 D, Chandigarh, Account No: 9612001641, IFSC: KKBK0004201, upon which he shall be released. He is also directed to furnish undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless

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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. Till then, no coercive steps be taken against the petitioner.

17. The petition is disposed of.

18. 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.

30.03.2026
ashok

(AMAN CHAUDHARY)
JUDGE

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