



CRM-M-14428-2025

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

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CRM-M-14428-2025

Omkar Singh @ Lucky

...Petitioner

V/s

U.T. Chandigarh and another

...Respondents

Date of decision: 12.05.2026**Date of Uploading : 12.05.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Darshan Singh, Advocate for the petitioner.

Mr. Manish Bansal, P.P. U.T. Chandigarh and
Mr. Shubham Mangla, APP for the U.T. Chandigarh.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 528 of BNSS, 2023, seeking quashing of order dated 14.12.2023 (Annexure P-3) passed by the Judicial Magistrate Ist Class, Chandigarh whereby the petitioner was declared proclaimed person in FIR No.0140 dated 06.08.2023 registered under Sections 365, 386, 420, 506, 120-B, 364-B and 389 of IPC at Police Station Sector 39, U.T. Chandigarh as also all consequential proceedings arising therefrom. Further a prayer has been made by the petitioner seeking protection from coercive action and for a direction to the Court below to release him on bail on his appearance.

2. The case of the prosecution, as emerging from the record, is that FIR in question came to be registered on the complaint of one Sanjay Goyal alleging that he had been lured to Chandigarh on the pretext of exchange of currency notes of denomination of Rs.2000/- into denomination of Rs.500/-. It has been alleged that after the complainant reached Sector-40,



connivance with police officials, wrongfully restrained and kidnapped him, threatened him with false implication and forcibly robbed cash amounting to Rs.1.01 crore along with documents and mobile phones. During the course of investigation, certain accused persons were arrested and the name of the present petitioner surfaced in the disclosure statement of co-accused Vajinder Singh @ Gill. The petitioner was thereafter arrayed as an accused and proceedings under Section 82 Cr.P.C. were initiated against him. Vide impugned order dated 14.12.2023, the Court below declared the petitioner as a proclaimed person.

3. Learned counsel for the petitioner has iterated that the impugned order declaring the petitioner as a proclaimed person is patently illegal, arbitrary and an abuse of the process of law as the mandatory procedure prescribed under Section 82 of Cr.P.C. were not complied with. Learned counsel has further iterated that the petitioner was not named in the FIR and has been falsely implicated solely on the basis of disclosure statement of a co-accused, which by itself is inadmissible in evidence. It has been further contended that the petitioner has no knowledge about the proceedings pending against him as during the relevant period he was suffering from serious spinal injury and was undergoing treatment at different places including Dehradun, Amritsar, Pathankot and Gurdaspur. It has been further submitted that the proclamation notice dated 04.10.2023 required the petitioner to appear on 31.10.2023, however the mandatory procedure regarding publication and execution of proclamation was never followed. Furthermore, no material has been placed before the Court below to establish that the proclamation was publicly read in the locality, affixed at



executed in accordance with law. It has been further contended that a perusal of the zimni orders passed by the Court below are completely silent with regard to recording of statement of the serving official with respect to the mode and date of publication of proclamation. Learned counsel has emphasized that co-accused namely Praveen Shah has also posed challenge to the same proclamation order before this Court in which interim protection has already been granted. 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. Referring to the reply filed by way of an affidavit of Jaswinder Singh SDPO/South, Officiating charge of SDPO/South-West, on behalf of the UT Chandigarh, learned counsel appearing for the U.T. Chandigarh has reiterated the submissions made therein and opposed the present petition. While refuting the case set up by the petitioner, learned counsel has submitted that the petitioner is involved in a serious offence pertaining to kidnapping, extortion and cheating involving huge amount of money. It has been further submitted that despite repeated efforts and issuance of non-bailable warrants, the petitioner could not be apprehended and therefore proceedings under Section 82 Cr.P.C. were rightly initiated. Furthermore, all legal formalities were duly complied with before declaring the petitioner as proclaimed person and PO challan has already been presented before the competent Court. Accordingly, dismissal of the instant petition has been

prayed for.



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. In the present case, a perusal of the impugned order dated 14.12.2023 reflects that the Court below has merely observed that “mandatory period of 30 days has expired” and proceeded to declare the petitioner proclaimed person. However, neither the impugned order nor the zimni orders disclose compliance of mandatory requirements regarding mode and manner of publication of proclamation. No satisfaction has been recorded by the Court below regarding due execution of proclamation in terms of Section 82(2) Cr.P.C. There is nothing on record to indicate that the statement of the serving official/officer was recorded regarding publication and affixation of proclamation. Furthermore, there is no material to establish that all mandatory modes of publication were complied with before passing the impugned order. The learned Court below did not record any satisfaction that the petitioner has absconded or was deliberately avoiding service. 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,



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).J”

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. It is pertinent to mention that it is by now a settled principle of law that before issuing a proclamation under Section 82 Cr.P.C., the Court must record its satisfaction that the accused, against whom the proclamation is sought to be issued, is absconding or concealing himself with intent to evade arrest. This foundational requirement is conspicuously absent in the present case. A perusal of the impugned order reflects that no such satisfaction was recorded by the Court below nor was there any material to justify the inference that the petitioner had absconded or was deliberately avoiding arrest. On the contrary, the stand of the petitioner that he was never served with any notice/warrants prior to the issuance of proclamation finds support from the record itself.

10. 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 recording of satisfaction, that the accused has absconded or is concealing himself so that warrant of his arrest cannot be executed, as embodied in Section 82 of the Code of Criminal Procedure, is to be scrupulously complied with based on relevant material available on record of the case in that regard. Non-adherence to said requirement while declaring the accused as proclaimed person vitiates the proclamation proceedings initiated against the accused.



11. Hence, no useful purpose would be served by keeping the criminal proceedings pending against the petitioner. It is, therefore, an appropriate case for the exercise of powers under Section 528 of 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.

12. In view of the prevenient ratiocination, it is ordained thus:

(i) The present petition is allowed and the order dated 14.12.2023 passed by the learned Judicial Magistrate First Class, Chandigarh declaring the petitioner as proclaimed person in FIR No.0140 dated 06.08.2023 registered under Sections 365, 386, 420, 506, 120-B, 364-A and 389 IPC at Police Station Sector-39, U.T. Chandigarh, along with all consequential proceedings arising therefrom, are hereby quashed.

(ii) The petitioner is directed to apply for bail, whether anticipatory or regular as deem appropriate by him, within a period of two weeks from today, failing which the present petition would be deemed to be dismissed without any further reference to the Bench.

(iii) 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 12, 2026
Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No