

2026:PHHC:039714



147 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13912-2026
Date of Decision:13.03.2026

Vikas Bibra ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Mohit Garg, Advocate
for the petitioner.

Mr. Vishal Singh, AAG, Haryana.

AARADHNA SAWHNEY, J. (ORAL)

1. Challenge in the present petition is to the order dated 31.01.2026 (Annexure P-7) passed by the Ld. JMIC, Panchkula in a complaint case u/s 138 Negotiable Instruments Act vide which proclamation proceedings were initiated against the petitioner.

2. While mentioning the factual backdrop of the case, learned counsel contends that criminal complaint NACT-54-2020 dated 14.01.2020 titled as '*Karan Singla Vs. Vikas Bibra*' u/s 138 of Negotiable Instruments Act was filed by respondent No.2-complainant against the present petitioner, in which the petitioner was summoned, vide order dated 07.10.2024 (Annexure P-3). Learned counsel contends that in fact the address of the petitioner was not correctly mentioned in the complaint, which fact is also apparent from the various reports on notices/BW/NBW received by the concerned Court. Special reference has been made to the interim order dated 06.12.2025 passed by the

Ld. JMIC, Panchkula wherein also this fact stands incorporated. It was for the first time on 06.12.2025 that the correct address where the petitioner is residing came on the record. Pursuant thereto warrants of arrest were issued. However, in the absence of there being any consistent reports with the learned Magistrate that petitioner is deliberately avoiding to appear before the concerned Court and is evading arrest, proclamation proceedings were initiated, which as per learned counsel is not in 'sync' with the procedural requirements of Section 82 Cr.P.C. It is further the submission of learned counsel that the financial dispute between the parties had already been settled by way of compromise dated 01.11.2023 (Annexure P-4) and is intended to be withdrawn.

Primarily based on these submissions, learned counsel contends to take lenient view in favour of the petitioner, who is willing to appear before the Ld. JMIC, Panchkula within a period of 15 days from today.

3. Heard. Documents on record perused.

At the outset, it needs to be ascertained as to whether the procedural requirements of Section 82 Cr.P.C. were complied with by learned Magistrate before declaring petitioner 'Proclaimed Person'.

In this context, before proceeding further, it would be appropriate to refer to a judgment of Coordinate Bench of this Court in **CRM-M-23777-2020** titled ***Sonu V/s. State of Haryana, decided on 06.10.2020***, wherein the essential requirements of section 82 Cr.P.C. for issuance and publication of proclamation against an absconder and declaring him as proclaimed person/offender were discussed 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 Cri LJ 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 Court-house 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).

(xi) 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).

4. It is, thus, clear that before initiating the proclamation proceedings, there should be a specific report before the learned Presiding Officer that the person against whom warrants have been issued, had absconded or is deliberately concealing himself, as also that his presence cannot be procured, except through publication. In the case in hand, as noted above, notices/BW/NBW received back unexecuted. It was for the first time on 06.12.2025 that the correct address where the petitioner is residing came on the record. Pursuant thereto warrants of arrest were issued. However, in the

absence of there being any consistent reports with the learned Magistrate that petitioner is deliberately avoiding to appear before the concerned Court and is evading arrest, proclamation proceedings were initiated.

5. Resultantly, the present petition stands allowed. Impugned order dated 31.01.2026 (Annexure P-7) passed by the Ld. JMIC, Panchkula is set aside. Petitioner is directed to appear before the Court concerned within a period of 15 days from today. In case, he surrenders before the court concerned within a period mentioned above, he be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate/Trial Court concerned. Petitioner 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.

6. 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.

13.03.2026
Parveen kumar

(AARADHNA SAWHNEY)
JUDGE

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