

CRM-M-14671-2026

2026 PHHC 043879



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

175

CRM-M-14671-2026 (O & M)

Date of decision: 19.03.2026

Gursimranjeet Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rishav Jain, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. The present petition has been filed under Section 528 BNSS for quashing of order dated 14.08.2023, Annexure P10, passed by Ld. Judicial Magistrate 1st Class, Sunam in case No.CHI/172/2019 in FIR No.116 dated 04.08.2018, registered at Police Station Chhajli, District Sangrur, vide which the petitioner was declared as proclaimed person; and order dated 24.03.2023, Annexure P7, whereby his bail bonds/surety bonds have been cancelled.

2. Learned counsel submits that the petitioner was granted interim bail on 29.08.2018 which was made absolute vide order dated 07.12.2018, Annexure P5. Challan was presented on 02.09.2019 and she had furnished his bail bonds, whereafter, charges were framed on 16.03.2020 and the case was adjourned for 09.04.2020, however, due to Covid-19 pandemic, it was adjourned again and again till 25.11.2021. Thus, she went to Italy to get married to a boy residing there on 21.06.2020 and

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returned on 30.09.2021. On 25.11.2021, she appeared and case was adjourned for prosecution evidence for 23.12.2021. However, she due to matrimonial reasons, went again to Italy on 23.08.2022 and could not appear on 01.09.2022 and as such, her bail was cancelled on 24.03.2023 and bail bonds were forfeited to the State, leading to issuance of non-bailable warrants and declared proclaimed person on 14.08.2023 while she was in Italy for which passport entries are relied upon as Annexure P12, hence, the Court had passed the same without recording its subjective satisfaction that she had absconded and concealing herself 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 she seeks only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate. It is also noted that Co-accused has been acquitted vide judgment dated 10.12.2025, Annexure P11, as the entire amount stands paid.

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3. Learned State counsel submits that the order passed against the petitioner is legal and valid on account of the fact that she had absented from the proceedings before the trial Court without any just cause.

4. Heard.

5. 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.

6. 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.

7. 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.

8. 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.

9. Reverting to the facts of the present case inasmuch as it was because the petitioner had moved abroad, prior to the passing of the impugned order and the procedure as envisaged by the Code not followed

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in letter and spirit, he could not be served and as such, her explanation for absence appears to be justified.

10. Considering the fact that the absence of the petitioner was not wilful or deliberate and her 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 her 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.

11. In view of the afore-mentioned judgments and the facts and circumstances of the case, the impugned orders dated 14.08.2023 and 24.03.2023, Annexures P10 & P7, are set aside.

12. She is directed to surrender before the trial Court on or before 06.04.2026 and on so doing, shall release her on bail subject to its satisfaction and deposit costs of Rs.10,000/- with Shree Mata Mansa Devi Bhandar Committee Charitable Trust (Regd.) having its Account No.50100238189041, IFSC Code-HDFC0000108, HDFC Bank, Sector-8, Panchkula. On furnishing bail/surety bonds, she is also directed to furnish undertaking by way of an affidavit that she will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. She 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.

13. The petition is disposed of.

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14. 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.

19.03.2026
ashok

(AMAN CHAUDHARY)
JUDGE

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