



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

175

CRM-M-14481-2026

Date of Decision : 17.03.2026

AKHIL SHARMA

...Petitioner

VERSUS**STATE OF PUNJAB**

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Naveen Batra, Advocate
for the petitioner.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner, an accused in case FIR No.213 dated 13.12.2023 registered against him, at Police Station Sadar Hoshiarpur, District Hoshiarpur, for commission of offences punishable under Sections 22, 29 of NDPS Act, has filed the present petition under Section 528 of BNSS, seeking quashing of the order dated 17.02.2025 (Annexure P-2) passed by the learned Judge, Special Court, Hoshiarpur, vide which on account of his non-appearance, his bail was cancelled, personal bonds, surety bonds were also cancelled and forfeited to state. His presence was sought to be procured through non-bailable warrants.

2. Learned counsel for the petitioner submits that after the petitioner was admitted to the relief of bail, he had been continuously appearing in the Court. On 24.01.2025, an application seeking his exemption from appearing in the Court was moved, which was sympathetically dealt with by the learned



Special Court. On 17.02.2025, petitioner, who is a Cab driver in Himachal Pradesh, could not inform his counsel, as he was in interiors of the State. Resultantly, on account of his absence, impugned order was passed. Thereafter, the case remained pending for appearance of petitioner. Repeated non-bailable warrants were issued which were received back unexecuted. Learned Judge, assuming that petitioner is intentionally not appearing before the Court and is deliberately avoiding the service, initiated Proclamation Proceedings against him, vide order dated 19.11.2025, for 10.12.2025. However, on the said day i.e. on 10.12.2025, Proclamation against petitioner was received back unexecuted and fresh Proclamation was issued for 23.01.2026. Presence of petitioner was awaited for 23.02.2026, when the following order was passed:-

“Proclamation of accused Akhil received back with executed. Statutory period of 30 days not elapsed. For awaiting appearance of accused as well as serving constable, case is adjourned to 26.02.2026.

xxx

xxx

xxx”

Learned counsel submits that on bare perusal of the aforesaid order, it is evident that learned Judge was conscious of the fact that period of 30 days had not lapsed from the date when the Proclamation was effected at the site and when the accused was to appear in the Court, therefore, adjourned the case for 26.02.2026. Such an adjournment, is not in ‘sync’ with the procedural requirements of Section 82 Cr.P.C.

It is with this backdrop that the learned counsel prays for setting aside the impugned order dated 17.02.2025 and prays to take lenient view in favour of petitioner, who undertakes to surrender before the Court concerned



immediately within a period of 10 days from today and to attend the Court proceedings regularly on each and every date of hearing.

3. Heard. Documents on record perused.

4. At the outset, it needs to be ascertained as to whether the procedural requirements of Section 82 Cr.P.C. (now Section 84 BNSS) 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).

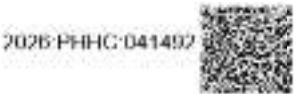
Moreover, while interpreting, the provision of Section 82 (1) Cr.P.C., this Court in ***Ashok Kumar vs. State of Haryana and another, 2013(4) RCR (Criminal) 550***, has held that a period of 30 days is required to be given to the accused and that even in case, the Court adjourns the matter subsequently, such adjournment beyond 30 days cannot be treated as compliance of requisite provisions.



Similar proposition of law was laid down in ***Prit Pal Singh vs. State of Punjab and others***, CRM-M-40897-2019, decided on 03.02.2020.

In the case in hand, it is evident from the copies of interim orders passed by the learned Special Judge, Hoshiarpur (appended along with petition) that repeated non-bailable warrants had been issued to procure presence of petitioner, which were received back unexecuted, however, learned Judge assumed that petitioner is deliberately avoiding to appear in the Court and thus, initiated Proclamation Proceedings. That apart, on 23.02.2026 proclamation was received back executed but since the period of 30 days had not lapsed from the date when the Proclamation was effected and when the accused had to appear, thus, the case was adjourned for appearance of accused as also for recording statement of Executing Constable. In the light of referred judgments, such an adjournment would not cure the initial defect.

5. In view of the above discussion and in the light of judgments referred hereinabove, the impugned order dated 17.02.2025 (Annexure P-2), is set aside. Petition is disposed of with a direction to the petitioner to appear before the Court concerned within a period of 15 days from today. On his appearance before the Court concerned, he shall be readmitted to bail on his furnishing fresh bail bonds/surety bonds to the satisfaction of learned trial Judge. 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 conditions, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AARADHNA SAWHNEY)
JUDGE

17.03.2026
Nisha Yadav

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>