

2026.PHHC.048006



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

159

CRM-M-15867-2026 (O&M)
Date of decision: 25.03.2026

Sukhdev @ Kala

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Pooja Jaglan, Advocate for the petitioner.
Mr. BS Saroha, DAG, Haryana.

AMAN CHAUDHARY, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 05.12.2023, vide which the petitioner was declared as proclaimed person in case FIR No.703 dated 19.08.2018, registered at Police Station Assandh, Karnal.
2. Learned counsel submits that the petitioner was granted bail in the year 2019 whereafter he continued to appear before the trial Court but for 26.04.2022 due to miscommunication as he had wrongly noted down some other date, leading to cancellation of bail and forfeiture of bail/surety bonds vide order dated 26.04.2022, Annexure P7 and issuance non-bailable warrants which remained unexecuted, thereafter, he was declared as proclaimed offender vide order dated 05.12.2023 without granting mandatory period of 30 days as proclamation notice was issued on 08.02.2023 for 09.05.2023 and case was further adjourned to 04.05.2023 and proclamation was effected on 21.08.2023

for which reference is made to statement of Executing Constable dated 29.08.2023, Annexure P5. Thus, he was not afforded pre-requisite time period of 30 days under Section 82(1) Cr.P.C., to appear before the trial Court. He is ready and willing to join the proceedings and prays that one last opportunity may be granted to him to surrender before the trial Court. He was declared as proclaimed offender in another FIR arising out of the similar incident wherein he was also declared as proclaimed offender and the order was set aside on 09.01.2026. Co-accused stands acquitted vide judgment dated 10.10.2024, Annexure P8. To buttress the submissions, reliance is placed upon judgments in the cases of CRM-M-29878-2022, **Sardar Singh and another vs. State of Punjab and another**, decided on 30.08.2022, **Uttam Sharma vs. State of Punjab and another**, CRM-M-31481-2021, dated 29.09.2021 and **Ashok Kumar vs. State of Haryana and another**, CRM-M-13638-2013, decided on 05.08.2013.

3. Learned State counsel 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.

4. Heard.

5. It is apposite to refer to the provisions of Section 82 (1) Cr.P.C. which reads thus:-

“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) xx xx xx xx

(3) xx xx xx xx.”

6. In the present case, proclamation was effected on 21.08.2023. However since, the mandatory period of 30 days to appear before the Court had not elapsed, the case stood adjourned to 21.09.2023, for the period to be completed, which is in teeth of the law laid down in that regard. A gainful reference can be made to the judgment in **Ashok Kumar** (supra), relevant para of which reads thus:

“A copy of the proclamation was also affixed at conspicuous part of the Court house, which means that the publication was effected on 9.2.2013 for 6.3.2013, which shows that after the publication of the notice, the accused was not given the mandatory period of 30 days to appear before the Court. The mere fact that the Court adjourned it after the period of 30 days will not be treated as compliance of the provisions of Section 82 (1) Cr.P.C.”

7. The aforesaid judgment was relied upon in **Uttam Sharma** (supra), wherein the order of proclamation was set aside, as a clear 30 days time from the date of publication was not afforded before issuing absconding warrant against the accused as per the statutory provisions of Section 82 Cr.P.C.

8. In view of the above discussion, this Court finds that the requisite procedure as mandated by Section 82 Cr.P.C. was not completely followed in letter and spirit, thus, the continuation of proceedings would be an abuse of the process and deserves to be quashed, as held in **Ramesh Chandra vs. State of U.P., 2022 SCC OnLine SC 1634**.

9. 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.

10. In view of the afore-mentioned judgments and the facts and circumstances of the case, the impugned order dated 05.12.2023, is set aside.

11. He is directed to surrender before the trial Court on or before 10.04.2026 and on so doing, shall release him on bail subject to its satisfaction and deposit costs of Rs.15,000/- 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, 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 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.

12. The petition is disposed of.

13. 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.

(AMAN CHAUDHARY)
JUDGE

25.03.2026

ashok

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No