

CRM-M-20222-2025

2026:PHHC:036833



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

324

CRM-M-20222-2025 (O & M)

Date of decision: 10.03.2026

Ajmer Chand

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Pritpal Singh Miglani, Advocate for the petitioner.

Mr. Rahul K. Adia, AAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. The present petition has been filed under Section 528 BNSS for quashing of FIR No.149 dated 23.05.2010, registered under Sections 323, 324, 34 IPC (Section 326 IPC added later on), at Police Station Nakodar, District Jalandhar, Annexure P1; impugned order dated 04.02.2015, Annexure P2, passed by the Ld. Sub Divisional Judicial Magistrate, Nakodar, whereby the petitioner has been declared as proclaimed person.

2. Learned counsel submits that the petitioner was initially declared innocent and summoned subsequently under Section 319 Cr.P.C. by the trial Court, wherein he was granted bail, however, he failed to appear and accordingly his bail was cancelled and bail bonds/surety bonds were forfeited to the State vide order dated 27.11.2014. Thereafter, non-bailable warrants were issued against him, which were received back unserved with the report that he went abroad as is apparent from order

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dated 23.12.2014. The statement of Kulwinder Kaur, Sarpanch, Annexure P6, also shows that he had gone abroad. He has been declared proclaimed person vide order dated 04.02.2015 without the Court recording its subjective satisfaction that he had absconded and concealing himself 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 he seeks only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate. The case has otherwise been compromised on 12.05.2017, Annexure P4, based on which the co-accused have been released on probation vide judgment of even date, Annexure P3. It is also noted that as per order dated 21.04.2025 passed by this Court, the prayer for quashing of FIR on the basis of compromise was given up with liberty to file a separate petition at appropriate stage.

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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 he 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 went to abroad as the matter stands compromised,

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wherein he was arrested and the procedure as envisaged by the Code not followed in letter and spirit, he could not be served and as such, his explanation for absence appears to be justified.

10. 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.

11. In view of the afore-mentioned judgments and the facts and circumstances of the case, the impugned order dated 04.02.2015, Annexure P-2, is set aside.

12. He is directed to surrender before the trial Court on or before 30.03.2026 and on so doing, shall release him on bail subject to its satisfaction and deposit costs of Rs.15,000/- to be paid to respondent No.2 within a period of 10 days. 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. 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.

10.03.2026
ashok

(AMAN CHAUDHARY)
JUDGE

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