

2026:PHHC:070685



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

269

CRM-M-21785-2025 (O & M)

Date of decision: 06.05.2026

PULKIT GUPTA & ANOTHER

....Petitioners

Versus

MUNISH KUMAR

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Gaurav Vir Singh Behl, Advocate and
Mr. Jugraj Singh Chouhan, Advocate,
for the petitioners.

AMAN CHAUDHARY, J. (ORAL)

1. As per office report, respondent No.1 is abroad as stated by his father and his address has not been disclosed.
2. The present petition has been filed for quashing of order dated 08.11.2024, Annexure P-7, passed by learned Judicial Magistrate Ist Class, Sunam, whereby petitioner No.2-Suresh Gupta has been declared as proclaimed person, operation of which was stayed by this Court on 25.04.2025.
3. Learned counsel does not press the instant petition qua petitioner No.1 since there is no order declaring him a proclaimed person, however, with regard to petitioner No.2, he contends that he was not served in due course and despiteailable warrants remaining unexecuted, neither non-ailable warrants were issued nor the procedure under Section 62 Cr.P.C. followed. Further that, since the fresh summons could not be served, for which reference is made to the order dated 09.08.2022, notice

through ordinary process was issued on 10.06.2022, and publication made on 30.10.2024, whereafter he was declared proclaimed person, vide impugned order, without the Court recording its subjective satisfaction that he had absconded and concealing himself as is the requirement under Section 82 Cr.P.C. Therefore, the proclamation proceedings being in violation thereof are liable to be set aside. He, however, is ready and willing to join the proceedings and prays that one last opportunity may be granted to petitioner No.2 to surrender before the trial Court.

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.P.C. 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 initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule of law, as also to ensure finalization of the proceedings.

9. Considering the fact that absence of petitioner No.2 was not wilful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to him, 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 judgment 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 qua him.

10. In view of the afore-mentioned judgments and the facts and circumstances of the case, the impugned order dated 08.11.2024 is set aside.

11. Petitioner No.2 is directed to surrender before the learned trial Court on or before 20.05.2026, and on so doing, he shall be released on bail subject to its satisfaction. 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 examined 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 present petition is accordingly allowed.
13. Before parting with this order, it is made abundantly clear that in case petitioner No.2 does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

06.05.2026
parveen kumar

(AMAN CHAUDHARY)
JUDGE

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