

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

141

2026.PHHC.074381



CRM-M-26700-2026 (O&M)

Date of decision: 12.05.2026

Chaman Lal**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Onkar Rai, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of order dated 16.12.2024 (Annexure P-2), passed by the learned trial Court in case arising out of FIR No. 116 dated 10.08.2010, registered under Sections 457 and 380 of IPC at Police Station Goraya, District Jalandhar, whereby proclamation proceedings initiated against him were completed but he was never declared a proclaimed person/offender.

2. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in the aforementioned case. The petitioner was granted concession of bail. Initially, the matter was amicably settled between the parties and the petitioner had gone abroad. Due to the said reason, he could not appear before the learned trial Court which resulted into cancellation of

his bail on 29.09.2014 and issuance of non-bailable warrants against him. Subsequently, proclamation proceedings were initiated against him, which were completed but he was formally not declared a proclaimed person/offender. It is further argued that he was never served with any notice/warrants issued by the learned trial Court at his ordinary place of residence in abroad. More so, the petitioner had been declared a proclaimed person without following the proper procedure prescribed under Section 82 of Cr.P.C. Co-accused Sony, who faced full length trial, has been acquitted by the learned trial Court, vide judgment dated 23.09.2015. The petitioner is ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

3. Notice of motion.

4. Learned State counsel, who has advance notice of the petition and is ready to argue the matter, has submitted that though, the learned trial Court has not formally declared the petitioner as a proclaimed person/offender but a perusal of the order dated 16.12.2014 would show that it was observed that 'proclamation proceedings of accused Chaman Lal are complete'. Hence, this order shows that the petitioner was declared a proclaimed person/offender in this case. It is further argued that there is no infirmity in the impugned order and the petitioner has rightly been declared a proclaimed person/offender as he was running away from the process of Court. It is, thus, urged that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

6. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section

82 Cr.P.C. as against the petitioner till the date of declaring him a proclaimed person/offender, this Court is of the considered opinion that the impugned order dated 16.12.2014, though it does not specifically contain the words declaring the petitioner as a proclaimed person/offender, suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

7. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 07.11.2014, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against him for 28.11.2014. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has not recorded its proper satisfaction that the petitioner had absconded or was concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence, which was in violation of the provisions of Section 82(1) of Cr.P.C. Reliance in this regard can be placed upon ***Rohit Kumar Vs. State of Delhi : 2008 CrL J. 2561.***

8. A perusal of the order dated 07.11.2014 would further show that proclamation was issued on 28.11.2014, which means that the petitioner was not granted mandatory period of 30 days to cause his appearance before the learned trial Court. Hence, the same was in clear violation of the provisions of Section 82(1) Cr.P.C., as per which, a specified time of not less than 30 days is required to be given to the accused from the date of publishing such proclamation which is mandatory in nature. Reliance in this regard can be placed upon ***Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826*** and ***Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339.***

Further, while adjourning the case to 16.12.2014 to complete the mandatory period of 30 days, the learned trial Court failed to consider the fact that it could not have extended the time by simply adjourning the case as a fresh proclamation was required to be published once the period between issuance of publication of proclamation and the specified period of hearing was less than 30 days. Reference in this context can be made to ***Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166.***

9. A perusal of the record also shows that it was reported by the serving police official to the learned trial Court that the petitioner was residing in Bharain. However, no efforts whatsoever were made by the Court concerned to know about the address of the petitioner in abroad, where the process could be sent to him. No letter to Ministry of External Affairs qua service of notice/warrants/proclamation against the petitioner is shown to have been written by the trial Court. As such, it can reasonably be presumed that the process never reached the petitioner and hence, he had no occasion to conceal himself. As such, the action of the trial Court by switching to the proclamation proceedings under Section 82 Cr.P.C. can itself be stated to be bad in the eyes of law. Reliance in this context can be placed upon ***Manjit Kaur vs. State of Punjab : 2013 SCC Online (P&H) 8663.***

10. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 16.12.2024 (Annexure P-2), passed by the learned trial Court in case arising out of FIR No. 116 dated 10.08.2010, registered under Sections 457 and 380 of IPC at Police Station Goraya, District Jalandhar, whereby the petitioner was supposedly declared a

proclaimed person/offender, is quashed with all consequential proceedings arising therefrom.

11. Keeping in view the fact that the petitioner is ready to join the Court proceedings which would obviously help in speedy conclusion of trial, he is directed to surrender before the learned trial Court within a period of 04 weeks from today and on doing so, the learned trial Court shall release him on bail, subject to his furnishing fresh personal/surety bonds to its satisfaction.

12. Till the appearance of the petitioner before the learned trial Court, his arrest shall remain stayed.

13. It is made clear that in case the petitioner fails to appear before the learned trial Court within the stipulated time, this petition shall be deemed to be dismissed.

14. However, this relief shall be subject to payment of cost of Rs. 25,000/-, to be deposited by the petitioner with the Punjab and Haryana High Court Employees Welfare Association, Chandigarh.

12.05.2026
Waseem R. Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>