



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

CRM-M-31669-2026

Date of decision: 29.05.2026

MANGAT MASIH

....Petitioner

Versus

STATE OF PUNJAB AND ANR.

....Respondents

CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present:- Mr. J.S. Brar, Advocate for the petitioner.

.....

RUPINDERJIT CHAHAL, J. (ORAL)

1. The present petition has been preferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, assailing the impugned order dated 15.05.2023 (Annexure P-7), whereby the learned Sub-Divisional Judicial Magistrate, Mukerian, District Hoshiarpur has declared the petitioner a proclaimed person.

2. Learned counsel for the petitioner submits that a complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed against the petitioner. Learned counsel for the petitioner submits that petitioner was granted concession of bail by the learned Trial Court vide order dated 06.09.2022 and was regularly appearing before the learned Trial Court. However, the petitioner failed to appear on 21.12.2022 due to his ill health and qua which the wife of the petitioner appeared before the learned Court and informed about the same by filing the exemption application however, the same was declined. Learned counsel further submits that the petitioner

is a truck driver by profession and the work order of the petitioner was to ply the truck from Hoshiarpur to Srinagar and due to the situation prevailing over there, he could not appear on subsequent proceedings as well. He further submits that due to his regular non appearance before the learned Trial Court, his bail bonds/surety bonds were cancelled followed by non-bailable warrants vide order dated 10.03.2023. He further submits that ultimately, he was declared a proclaimed person by the trial court vide order dated 15.05.2023 (Annexure P-7).

3. He further argues that since petitioner was never served with any notice/warrant, hence, the impugned order has been passed without complying with the requirements of section 82 Cr.P.C. (section 84 BNSS). He further submits that the petitioner undertakes to appear before the trial Court on each and every date of hearing. Hence, he prays for quashing of the said order.

4. Notice of motion.

5. Mr. J.S. Rattu, DAG Punjab, accepts notice on behalf of respondent-State and supports the impugned order, contending that the petitioner deliberately avoided appearance, leaving the trial Court with no option but to issue proclamation to secure his presence.

6. I have heard learned counsel for the parties and perused the record.

7. The object behind issuance of non-bailable warrants or proclamation is only to secure the presence of the accused. In the present case, the petitioner has voluntarily approached this Court and undertaken to appear before the trial Court regularly.

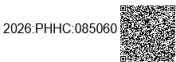


8. The determination of whether the default of an accused is intentional or unintentional must be made on a case-by-case basis, taking into account the specific facts and circumstances of each case. Where it is established that the absence, or prolonged absence, of the accused is deliberate and intended to evade the process of law, appropriate costs may be imposed after considering the nature of the offence and the capacity of the accused to pay any cost.

9. In the present case, apart from a bald assertion that requirements of Section 82 Cr.P.C. were not complied with before declaring petitioner a Proclaimed person, no plausible ground has been raised by the learned counsel for the petitioner to support his contention. However, still this court is inclined in taking a lenient view keeping in view the facts and circumstances of the case in hand.

10. In view of the foregoing discussion, the petition is allowed. The impugned order dated 15.05.2023 (Annexure P-7), declaring the petitioner proclaimed person, is set aside and the petitioner is directed to appear before the trial Court within four weeks from today, subject to payment of Rs.10,000/- as costs to be deposited by the petitioner in ***Poor Patients Welfare Fund, PGIMER Chandigarh***. Upon doing so, he shall be released on bail subject to furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court.

11. Besides, petitioner shall also file an undertaking/affidavit that he will appear in all future proceedings of the trial and proceedings shall not be delayed because of his conduct.



12. It is made clear that in case, petitioner fails to appear before the trial court within the stipulated period, this order shall be deemed to be vacated.

29.05.2026	(RUPINDERJIT CHAHAL)
puneet	JUDGE
i) Whether speaking/reasoned?	Yes/No
ii) Whether reportable?	Yes/No