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

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CRM-M-35811-2025 (O&M)

Date of decision: 27.01.2026

Munish Kumar**...Petitioner****Versus****State of U.T., Chandigarh****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Bikramjit Singh Randhawa, Advocate
for the petitioner.

Mr. Roopse Sharma, Advocate for
Mr. Anil Kumar Lamdharia, APP, U.T., Chandigarh.

MANISHA BATRA, J. (Oral)**1. CRM-48122-2025**

Allowed as prayed for. Documents are taken on record.

2. CRM-M-35811-2025 (O&M)

The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for quashing of order dated 16.10.2018 (Annexure P-3), passed by the Court of learned Judicial Magistrate First Class, Chandigarh in case arising out of FIR No. 18 dated 17.01.2017, registered under Sections 379, 411 and 34 of IPC at Police Station Sector 36, Chandigarh, whereby the petitioner had been declared a proclaimed person.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in the aforesaid case. He was on bail in this case. However, subsequently, he could not appear before the Court due to his involvement in another case, wherein he was convicted. The absence of the petitioner before

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the learned trial Court was neither intentional nor deliberate but due to the reason aforesaid. The impugned order had been passed by the learned trial Court when the petitioner was behind bars in the aforementioned case. The co-accused Monu Sapihya, who faced full length trial, has been acquitted by the learned trial Court, vide judgment dated 02.08.2023. The chances of the petitioner's conviction are also very bleak. More so, the petitioner had been declared a proclaimed person without following the proper procedure prescribed under Section 82 of Cr.P.C. He is ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

4. *Per contra*, learned counsel appearing for U.T., Chandigarh has resisted the petition by submitting that there is no infirmity in the impugned order and the petitioner has rightly been declared a proclaimed person 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 of Cr.P.C. as against the petitioner till the date of declaring him a proclaimed person, this Court is of the considered opinion that the impugned order dated 16.10.2018 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

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20.08.2018, 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 20.09.2018. 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 record reveals that the proclamation was executed on 16.09.2018, requiring the petitioner to cause his appearance before the trial Court on 20.09.2018, 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.***

9. 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 16.10.2018 (Annexure P-3), passed by the Court of learned Judicial Magistrate First Class, Chandigarh in case arising out of FIR No. 18 dated 17.01.2017, registered under Sections 379, 411 and 34 of IPC at Police Station Sector 36, Chandigarh, whereby the

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petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising therefrom.

10. 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 15 days 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.

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

12. It is made clear that in case the petitioner fails to appear before the trial Court within a period of four weeks from today, this petition shall be deemed to be dismissed.

27.01.2026
Waseem Ansari

(MANISHA BATRA)
JUDGE

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