



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

202

CRM-M-36421-2025 (O&M)

Date of decision: 10.02.2026

Hardev Singh

....Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sourabh Singla, Advocate for the petitioner

Mr. Jasjit Singh, DAG Punjab

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition for quashing the impugned order dated 07.01.2020, whereby the petitioner was declared as proclaimed person in a complaint bearing No.COMA-350-2017 filed under Section 138 & 142 NI Act.
2. Learned counsel submits that the petitioner had never received the notice in the complaint filed under Section 138 NI Act and the proclamation proceedings were initiated based on the address of his shop i.e. M/s Thind Kheti Bari Centre, Naruna Road, Near Hira Auto-Patran, which he had closed down in November, 2016 and he was, as a matter of fact, residing in village Kahangarh Gharachon, Police Station Patran, District Patiala, which is also mentioned in the memo of parties in the present petition. A perusal of the report of serving constable reveals that the shop had been closed wayback long. Consequently, he was declared proclaimed person vide order dated 07.01.2020, without complying with the provisions of Section 82 Cr.P.C in letter and spirit. He is ready and willing to join the proceedings and prays that one last opportunity may be granted to him to surrender before the trial Court.



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 the case of **Gurbir Singh Mundi** (supra), 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. This Court in the judgment passed in **Major Singh @ Major Vs. State of Punjab**, 2023 (3) RCR (Criminal) 406, has held that the Court is first required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. In the judgment passed by this Court in **Sonu Vs. State of Haryana 2021 (1) RCR (Crl.) 319**, it has been held that the conditions specified in Section 82 (2) Cr.P.C. for the publication of a proclamation against an absconder are mandatory. Any non-compliance therewith cannot be cured as an 'irregularity' and renders the proclamation and proceedings subsequent thereto a nullity.

7. 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.

8. 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 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.

9. In view of the afore-mentioned judgments and the facts and circumstances of the case, the impugned order dated 07.01.2020, Annexure P-8, is set aside.

10. He is directed to surrender before the trial Court on or before 25.02.2026 and on so doing, he shall release him on bail subject to its satisfaction and payment of cost of Rs.10,000/- to the complainant. 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.

11. The petition is disposed of.

12. Before parting with this order, it is made abundantly clear that in case the petitioners do not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

10.02.2026

M.Kamra

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No