



102/2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45432-2022(O&M)

Date of Decision:19.05.2026

Sandeep Kumar Gulati @ Sandeep
Kumar @ Sonu

...Petitioner

VS.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Sukhdev Singh Khokher, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 482 of Cr.P.C. with a prayer to quash the order dated 17.07.2010 (Annexure P-4), passed by the Court of Judicial Magistrate 1st Class, Moga, whereby, the petitioner has been declared as proclaimed offender, in a case arising out of FIR No. 26 dated 27.02.2010 under Sections 307, 436, 427, 353, 186, 148, 149 of IPC, Sections 25 & 27 of the Arms Act, 1959 and Section 4 of the Prevention of Damage to the Public Property Act, 1989 registered at Police Station Baghapurana, District Moga and all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the petitioner was falsely involved in case FIR No.26 dated 27.02.2010 (Annexure P-1). In fact, a mob had caused damage to the public as well as the private properties and the



petitioner was not even present at the spot. However, on the basis of a disclosure statement suffered by Jaswinder Singh son of Lal Singh, he was also nominated as an accused in the present case. The petitioner had no knowledge about the criminal proceedings initiated against him and on 01.03.2010, he left for New Zealand. Thereafter, the non-bailable warrants were issued against the petitioner, which could not be served on the petitioner as he was abroad. Learned counsel further submits that the petitioner had no knowledge about the pendency of the criminal proceedings against him nor the prosecution made any attempt to serve the petitioner through embassy or to any other mode of communication. Even the police was aware of the fact that the petitioner had been living abroad, but no steps were taken to serve him, as per the mandate of law. Ultimately, the trial Court issued the proclamation (Annexure P-6) on 22.03.2010 and the petitioner was required to appear before the trial Court on 03.04.2010 in pursuance of the said proclamation. It has been submitted that on 03.04.2010, the period of 30 days had not elapsed and the provisions of Section 82 Cr.P.C. were not followed by the trial Court and subsequently, he was declared as a proclaimed offender on 17.07.2010. Apart from that, learned counsel also submitted that the petitioner has been wrongly declared as a “proclaimed offender”.

3. On the other hand, learned State counsel had vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner had intentionally not appeared before the Trial Court for several months and is not entitled for any relief. It was submitted that the petitioner had the knowledge of pendency of the proceedings against him, however, he



chose not to appear before the Trial Court and the petition is liable to be dismissed. However, learned State counsel could not rebut the factual submissions made by learned counsel for the petitioner in the present case.

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

5. It has been held by this Court in the matter of **Ashok Kumar Vs. State of Haryana and Anr.2013(4) RCR (Criminal) 550 as under:**

“3. As per order dated 04.01.2013 passed by the learned Additional Chief Judicial Magistrate, Panipat the case has been adjourned for 06.03.2013 for issuing of proclamation under Sections 82 and 83 Cr.P.C.against petitioner Ashok Kumar. The order dated 06.03.2013, shows that proclamation issued against Ashok Kumar received back duly executed. Statement of Serving Constable was also recorded. Period of 30 days had not elapsed from the date of publication. Therefore, the case was adjourned to 13.3.2013. On that day, the petitioner was declared as proclaimed offender. The original record also shows that the statement of the serving official, namely, ASI Dilbag Singh was recorded on 6.3.2013, who stated that on 9.2.2013, he visited the place of residence of the accused along with proclamation. After reading publicly, the proclamation was affixed at conspicuous part of the house of the accused where he ordinarily resides. A copy of the proclamation was also affixed at conspicuous part of the Court house, which means that the publication was effected on 9.2.2013 for 6.3.2013, which shows that after the publication of the notice, the accused was not given the mandatory period of 30 days to appear before the Court. The mere fact that the Court adjourned it after the period of 30 days will not be treated as compliance of the provisions of Section 82 (1) Cr.P.C. where it is provided that :-

**“82. Proclamation for person absconding. --**

(1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(1) xx xx xx xx xx xx xx

(2) xx xx xx xx xx xx xx

4. “In view of the above provisions of Section 82(1) Cr.P.C., it is clear that the publication was effected on 9.2.2013 and the accused was directed to appear in the Court as per that publication on 6.3.2013 which period was less than 30 days. Therefore, it cannot be held that by passing the impugned order on 13.3.2013, the publication has been effected as per the provisions of Section 82 Cr.P.C. There was no order in the publication for the accused giving specified time and place to appear on 13.3.2013. Therefore, this order is not as per law and the same is set aside”.

6. Still further, it has been held by this Court in the matter of **Avtar Singh Vs. State of Punjab and Anr. in CRM-M-1866-2017** which is as under:-

“The above quoted provision is clear that through the proclamation made prior to declaration of a person as a proclaimed offender, he should be given not less than thirty days from the date of its proclamation to appear at a specified place and a specified time.

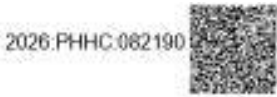
In the case in hand, thirty days were not given to the petitioner to appear before the Trial Court as the proclamation was made on



13.05.2011 requiring him to appear before the Trial Court on 14.05.2011. Thus, the proclamation and the subsequent order dated 03.09.2011 (Annexure P-2) declaring the petitioner to be a proclaimed offender do not confirm with the mandate of Section 82 (1) of the Code.

7. In the present case also, the trial Court had not complied with the mandatory provisions of Section 82 of Cr.P.C. and in view of the mandatory provisions of Section 82 of Cr.P.C and the ratio laid down by this Court in the matter of Ashok Kumar and Avtar Singh (supra), the present petition is allowed and the order dated 17.07.2010 (Annexure P-4), passed by the Court of Judicial Magistrate 1st Class, Moga, whereby, the petitioner has been declared as proclaimed offender, in a case arising out of FIR No.26 dated 27.02.2010 under Sections 307, 436, 427, 353, 186, 148, 149 of IPC, Sections 25 & 27 of the Arms Act, 1959 and Section 4 of the Prevention of Damage to the Public Property Act, 1989 registered at Police Station Baghapurana, District Moga and all consequential proceedings arising therefrom are liable to be quashed qua the present petitioner.

8. Since the matter had remained pending before the trial Court for the last several years, no purpose would be served by sending the petitioner behind bars after such a long period. Consequently, the petitioner is permitted to surrender before the learned trial Court/Area Magistrate/Duty Magistrate within a period of eight weeks from today and on his surrender, he shall be admitted to bail by the concerned Court on his furnishing bail bonds/surety bonds to the satisfaction of the concerned Court. The Court, which admits the petitioner to bail, shall also be at liberty to impose such reasonable conditions, as provided



by law. In case, the petitioner does not surrender within a period of eight weeks from today, the present petition shall be deemed to be dismissed by this Court.

9. The petition is disposed off in above terms.

19.05.2026
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned :
Whether reportable

Yes/No
Yes/No