



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

299

CRM-M-46816-2024 (O&M)
Date of decision: 12.03.2026

Gurjit Singh alias Jita alias Gurjeet Singh Thind

....Petitioners

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sherry K. Singla, Advocate for the petitioner

Mr. Rahul Kumar Adia, AAG, Punjab

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition filed under Section 528 BNSS for quashing of FIR No.35 dated 20.05.2014, registered under Sections 341, 323, 506, 427, 148, 149 IPC, at Police Station City Ahmedgarh, District Sangrur and the order dated 23.02.2018, whereby the petitioner has been declared as proclaimed offender.

2. Learned counsel for the petitioner restricts his prayer only to the order dated 23.02.2018 passed by learned Judicial Magistrate 1st Class, Malerkotla, declaring him proclaimed person and with regard to other prayer, he withdraws it to take all pleas including the judgment passed in the case of co-accused, whereby they were acquitted on 09.10.2018, Annexure P-6.

3. Learned counsel submits that the petitioner was declared proclaimed person in the FIR, without following the mandatory provisions of Section 84 Cr.P.C. inasmuch as the report of the statement of serving official



dated 19.12.2017, Annexure P-3, while, he was directed to appear on 24.01.2018 and the proclamation was effected on 23.01.2018 and as such, mandatory period of 30 days was not granted. Thus the same are liable to be set aside. Moreover, all the other co-accused in the main FIR stand acquitted. However, he is ready and willing to surrender before the trial Court for which he seeks 3 months time on account of the fact that he is residing abroad and his passport having expired, he has applied for renewal thereof, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate. To buttress the submissions, reliance is placed upon judgments in the cases of CRM-M-29878-2022, **Sardar Singh and another vs. State of Punjab and another**, decided on 30.08.2022, **Uttam Sharma vs. State of Punjab and another**, CRM-M-31481-2021, dated 29.09.2021 and **Ashok Kumar vs. State of Haryana and another**, CRM-M-13638-2013, decided on 05.08.2013.

4. Learned State counsel submits that the trial Court has rightly passed the order as the petitioner did not appear before the Court and evaded the proceedings. However, he is unable to controvert the factum of co-accused having been acquitted by the trial Court in the main case.

5. Heard the learned counsel for the parties.

6. It is apposite to refer to the provisions of Section 82 (1) Cr.P.C. which reads thus:-

“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.

(2) xx xx xx xx

(3) xx xx xx xx.”

7. In the present case, proclamation was issued for 24.01.2018 and thereafter, the statement of the serving official was recorded on 23.01.2018. Since, the mandatory period of 30 days to appear before the Court had not elapsed, the case stood adjourned to 09.02.2018, for the period to be completed, which is in teeth of the law laid down in **Ashok Kumar** (supra), relevant para whereof reads thus:

“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.”

8. The aforesaid judgment was relied upon in **Uttam Sharma** (supra), wherein the order of proclamation was set aside, as a clear 30 days time from the date of publication was not afforded before issuing absconding warrant against the accused as per the statutory provisions of Section 82 Cr.P.C.

9. In view of the above discussion, this Court finds that the requisite procedure as mandated by Section 82 Cr.P.C. was not completely followed in letter and spirit, thus, the continuation of proceedings would be an abuse of the process and deserve to be quashed, as held in **Ramesh Chandra vs. State of U.P.**, 2022 SCC OnLine SC 1634.

10. In the case of **Jasbir Kaur vs. State of Punjab and another**, CRM-M-25115-2022, decided on 2.6.2022, since the petitioner therein was a



Non Indian Resident residing in Canada and proclamation proceedings had been initiated while she was not in India, as such, the order of proclamation was set aside.

11. Similarly, in **Jaswant Singh vs. State of Punjab and another**, CRM-M-32011-2018, decided on 06.02.2020, noticing the submission made by the counsel for the petitioner relying on the photocopy of the passport (Annexure A-1) that he was was in Italy at the time of registration of FIR on 29.10.2009, as well as, on the day, when he was declared proclaimed offender vide order dated 28.04.2014 and even on the date of passing of the above order.

12. The very purpose of issuance of proclamation etc. is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

13. Considering the fact that the co-accused stand acquitted vide judgment dated 09.10.2018 and that the absence of the petitioner was not wilful or deliberate, but for the reason aforesaid and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to him, 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 judgments 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.

14. In view of the afore-mentioned judgments and the facts and circumstances of the case, the impugned order dated 23.02.2018, Annexure P-2, is hereby set aside.

15. He is directed to surrender before the trial Court on or before



25.03.2026 and on so doing, he shall be released on bail subject to its satisfaction, subject to deposit of Rs.25,000/- as costs with Sai Aasra Paraplegic Rehab Centre (Kotak Mahindra Bank, Branch Sector 27 D, Chandigarh, Account No: 9612001641, IFSC: KKBK0004201. 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. Till then, no coercive steps be taken against the petitioner.

16. The present petition stands disposed of with the liberty as prayed for.

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

(AMAN CHAUDHARY)
JUDGE

12.03.2026

M.Kamra

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No