

2026.PHHC.062084



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

102-1

CRM-M-58597-2025 (O & M)

Date of decision: 23.04.2026

Shikha Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Shubham Pathania, Advocate (through VC) for
Mr. Varun Issar, Advocate for the petitioner.

AMAN CHAUDHARY, J. (ORAL)

1. The present petition has been filed under Section 528 BNSS for quashing of impugned order dated 01.07.2025, Annexure P1, in CHI/499/2024 passed by the Ld. Judicial Magistrate 1st Class, Faridkot, whereby the petitioner has been declared as proclaimed person.

2. Learned counsel submits that the petitioner has been implicated being wife of co-accused Deepak Sharma, proprietor of M/s SBE Visa Immigration Consultant, whereas the divorce petition had been filed by him. She has no concern whatsoever with the said firm. She was travelling abroad from 09.05.2023 to 01.08.2025 to explore treatment options for ailing child, suffering from Thalassemia Major -Compound Heterozygous, for which reference is made to medical reports, Annexure P5. She has been declared proclaimed person vide order dated 01.07.2025 without the Court recording its subjective satisfaction that she had absconded and concealing herself as is the requirement under Section 82(2)(i)(a) Cr.P.C. Thus, the procedure mandated under Sections 41, 105 and 82 Cr.P.C. had not also been followed. A further reference is made to

a Notification issued by the Government of India Ministry of Home Affairs, IS Division-II:Legal Cell New Delhi, dated the 11th Feb, 2009, laying down comprehensive guidelines in this regard of reciprocal arrangements to be made by Central Government with the Foreign Governments with regard to the service of summons/warrants/judicial processes. The Ministry of Home Affairs has entered into Mutual Legal Assistance Treaty/Agreements with 22 countries which provide for serving of documents. Therefore, the proclamation proceedings being in violation thereof are liable to be set aside. She, however, is ready and willing to join the proceedings and prays that one last opportunity may be granted, even if the same is subject to costs, to her to surrender in a fortnight and seek her legal remedy before the trial Court.

3. Notice of motion.

4. At the asking of the Court, Mr. Manipal Singh Atwal, DAG, Punjab, accepts notice on behalf of the respondent-State and submits that the order passed against the petitioner is legal and valid on account of the fact that she had absented from the proceedings before the trial Court without any just cause.

5. No order prejudicial to the rights of the private respondent is being proposed to be passed by this Court, thus there is no requirement of effecting service upon him.

6. Heard.

7. In **Gurbir Singh Mundi vs. State of Punjab and another**, CRM-M-49283-2021, decided on 16.12.2021, 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.

8. In **Sonu vs. State of Haryana**, 2021 (1) RCR (Crl.) 319, it was held that any non-compliance in the procedure prescribed in declaring a proclaimed person, cannot be treated as an irregularity but the same renders such proceedings a nullity.

9. This Court in **Satvir Singh vs. State of Punjab and another**, CRM-M-27621-2025, 20.05.2025, while relying on **Rohit Kumar vs. State of Delhi 2008 Crl. J. 2561**, has held that Court must be prima facie satisfied that the person absconded or is concealed himself so that warrant of arrest, previously issued, cannot be executed, despite due diligence.

10. In **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, petition was allowed on 6.2.2020, noticing the submission made by the counsel for the petitioner relying on the photocopy of the passport (Annexure A-1) that he was in Italy at the time of registration of FIR 29.10.2009, as well as, on the day, when he was declared proclaimed offender vide order dated 28.4.2014 and even on the date of passing of the above order.

12. The very purpose of issuance of summons, warrants 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 absence of the petitioner was not wilful or deliberate and her 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 her 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 01.07.2025, Annexure P-1, is set aside.

15. The petitioner is directed to surrender before the learned trial Court within a period of 2 weeks to seek her remedy for grant of bail in accordance with law, to be decided on the same day. It shall be subject to deposit Rs.5,000/- as costs with Sadhna Society for the Mentally Handicapped, Near Housing Board Chowk, Raen Basera Building, Manimajra, Sector 13, Chandigarh, having its Account No.110410011001558, IFSC Code-UBIN0811041, Panchkula Branch, Panchkula. Till then, no coercive steps be taken.

16. The petition is disposed of.

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.

23.04.2026
ashok

(AMAN CHAUDHARY)
JUDGE

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