

CRM-M-65582-2025

2026:PHHC:011940



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-65582-2025

Taranjot Singh @ Tarna

....Petitioner

versus

State of Punjab

....Respondent

Date of Decision: January 28, 2026

Date of Uploading: January 28, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Ms. Ramandeep Kaur Brar, Advocate for
Mr. Monty Goyal, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

SUMEET GOEL, J. (ORAL)

Present petition has been filed under Section 528 of the Cr. P.C., 1973, seeking quashing of the impugned order dated 20.11.2024 (Annexure P-7) passed by the learned Sub Divisional Judicial Magistrate, Khanna, whereby, the petitioner was declared as proclaimed offender, in a case arising out of FIR No.148 dated 23.08.2023, under Section 27 of the NDPS Act, 1985, registered at Police Station City-2, Khanna, Punjab, as well as all the subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner has contended that the impugned order, whereby the petitioner has been declared a proclaimed offender, is wholly illegal, arbitrary, and unsustainable in the eyes of law. It has been further contended that the Court below has failed to follow due process prescribed under Section 82 of Cr. P.C. Learned counsel has further iterated that the petitioner has been falsely implicated into the present FIR. Learned counsel has argued that the

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petitioner was granted concession of interim regular bail by the learned Judge Special Court, Ludhiana, vide order dated 12.09.2023 (Annexure P2) since the FSL report had not come, and upon receipt of FSL report, whereby, the contraband was found to be non-commercial in nature, therefore, the aforesaid order was made absolute, vide order dated 30.10.2023 (Annexure P-3) passed by the learned Judge Special Court, Ludhiana. Learned counsel has argued that thereafter, the petitioner had been continuously appearing before the said Court regularly.

2.1. Learned counsel has further argued that, vide order dated 15.04.2024, learned Sub Divisional Judicial Magistrate requested to the Court of Sessions Judge, Ludhiana for sending remand papers of the petitioner to that Court. Learned counsel has argued that the petitioner was continuously appearing before the learned Judge Special Court, Ludhiana.

2.2. Learned counsel has argued that notice, bailable/ non-bailable warrants issued against the petitioner by learned Sub Divisional Judicial Magistrate, Khanna remained unserved, and therefore, vide order dated 19.09.2024, the said Court wrongly issued proclamation against the petitioner for 07.11.2024. Thereafter, vide impugned order dated 20.11.2024 (Annexure P-6), the petitioner has been wrongly declared as proclaimed offender being in gross violation of Section 82 of the Cr. P.C. Learned counsel has further argued that the process of sending remand papers was within two Courts and the petitioner being a layman had no knowledge *qua* the same. On the basis of these submissions, learned counsel has prayed that the impugned order is liable to be set-aside being illegal and unjustified and hence liable to be set-aside.

3. Reply by way of an affidavit dated 26.01.2026 has been filed by the learned State counsel, in the Court today, which is taken on record. Raising submissions in tandem with the said status report, learned State counsel has

opposed the present petition. While refuting the case set up by the petitioner, detailed arguments were advanced on merits, contending that after service of the proclamation and even after according sufficient opportunity thereafter to the petitioner requiring him to appear and participate in the trial, the petitioner deliberately avoided the process of law and did not cause appearance. Learned State counsel further, submitted that, the petitioner appeared before the trial Court on 22.12.2025, whereupon, after considering the facts and circumstances, the petitioner was released on bail on furnishing bail bonds in the sum of Rs.50,000/- with surety. Learned State counsel has however, submitted that subsequent appearance of the petitioner before the trial Court does not automatically render the proclaimed offender order illegal or nonest in the eyes of law. The petitioner had evaded the trial proceedings for a substantial period and therefore, the conduct of the petitioner disentitles him from any relief. Moreover, it has been stated that the learned Court below followed the procedure as laid-down under Section 82 of the Cr. P.C., 1973 in letter and spirit and no discrepancy whatsoever is forthcoming from the records of the case. Accordingly, dismissal of the instant petition has been prayed for.

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

5. The law is well settled that no person can be declared a proclaimed offender/person unless the procedure prescribed under Section 82 of the Code of Criminal Procedure, 1973 is strictly and meticulously adhered to. It is trite that the provisions of Section 82 Cr.P.C. are mandatory in nature, and any non-compliance thereof vitiates the entire proceedings. Furthermore, Section 82(1) of the Cr. P.C. clearly provides that before issuing a proclamation requiring a person to appear, the Court must have reason to believe that such person has absconded or is

concealing himself so that the warrant cannot be executed. In the present case, the record reflects that the summons and bailable/ non-bailable warrants were remained unserved and there is no finding that the petitioner was evading service.

6. This Court finds that the course adopted by the Court below is in clear contravention of, and antithetical to, the provisions of Section 82 of the Code of Criminal Procedure, 1973. The Court below has committed a manifest illegality by issuing and acting upon the proclamation without ensuring compliance with the mandatory statutory requirements. The learned Court below, while declaring the petitioner as a proclaimed person, failed to record the requisite judicial satisfaction regarding due execution of the proclamation and proceeded in a mechanical and perfunctory manner, rendering the impugned order legally unsustainable. Such an order being violative of mandatory provisions of law, cannot be sustained. Section 82 of the Criminal Procedure Code, 1973 reads as under:

“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) The proclamation shall be published as follows: -

(i)(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part of the court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this Section have been complied with, and that the proclamation was published on such day.

[(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under Sections 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459, or 460 of the Indian Penal Code (45 of 1860), and such person fails to appear at the specified place and time required by the proclamation, the

Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).f”

7. A Coordinate Bench of this Court while dealing with invocation of the provision of Section 82 of the Code of Criminal Procedure, against an accused in the case of ‘*Sonu v. State of Haryana, 2021(1) RCR (Criminal) 319*’, held as under:

“9. The essential requirements of section 82 of the Cr.P.C., 1973 for issuance and publication of proclamation against an absconder and declaring him as proclaimed person/offender may be summarized as under:-

(i) Prior issuance of warrant of arrest by the Court is sine qua non for issuance and publication of the proclamation and the Court has to first issue warrant of arrest against the person concerned. (See Rohit Kumar v. State of Delhi: 2008 CrI. J. 2561).

(ii) There must be a report before the Court that the person against whom warrant was issued had absconded or had been concealing himself so that the warrant of arrest could not be executed against him. However, the Court is not bound to take evidence in this regard before issuing a Proclamation under section 82(1) of the Cr.P.C., 1973. (See Rohit Kumar v. State of Delhi : 2008 CrI. J. 2561).

(iii) The Court cannot issue the Proclamation as a matter of course because the Police is asking for it. The Court must be prima facie satisfied that the person has absconded or is concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence. (See Bishundayal Mahton and others v. Emperor : AIR 1943 Patna 366 and Devender Singh Negi v. State of U.P. : 1994 CrI LJ (Allahabad HC) 1783).

(iv) The requisite date and place for appearance must be specified in the proclamation requiring such person to appear on such date at the specified place. Such date must not be less than 30 clear days from the date of issuance and publication of the proclamation. (See Gurappa Gugal and others v. State of Mysore : 1969 CrI LJ 826 and Shokat Ali v. State of Haryana : 2020(2) RCR (CRIMINAL) 339).

(v) Where the period between issuance and publication of the proclamation and the specified date of hearing is less than thirty days, the accused cannot be declared a proclaimed person/offender and the proclamation has to be issued and published again. (See Dilbagh Singh v. State of Punjab (P&H) : 2015 (8) RCR (CRIMINAL) 166 and Ashok Kumar v. State of Haryana and another : 2013 (4) RCR (CRIMINAL) 550)

(vi) The Proclamation has to be published in the manner laid down in section 82(2) of the Cr.P.C., 1973. For publication the proclamation has to be first publicly read in some conspicuous place of the town or village in which the accused ordinarily resides; then the same has to be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides or to some conspicuous place of such town or village and thereafter a copy of the proclamation has to be affixed to some conspicuous part of the Court-house. The three sub-clauses (a)- (c) in

section 82 (2)(i) of the Cr.P.C., 1973 are conjunctive and not disjunctive, which means that there would be no valid publication of the proclamation unless all the three modes of publication are proved. (See Pawan Kumar Gupta v. The State of W.B. : 1973 CriLJ 1368). Where the Court so orders a copy of the proclamation has to be additionally published in a daily newspaper circulating in the place in which the accused ordinarily resides. Advisably, proclamation has to be issued with four copies so that one each of the three copies of the proclamation may be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides, to some conspicuous place of such town or village and to some conspicuous part of the Courthouse and report regarding publication may be made on the fourth copy of the proclamation. Additional copy will be required where the proclamation is also required to be published in the newspaper. (vii) Statement of the serving officer has to be recorded by the Court as to the date and mode of publication of the proclamation. (See Birad Dan v. State: 1958 CriLJ 965). (viii) The Court issuing the proclamation has to make a statement in writing in its order that the proclamation was duly published on a specified day in a manner specified in section 82(2)(i) of the Cr.P.C., 1973. Such statement in writing by the Court is declared to be conclusive evidence that the requirements of Section 82 have been complied with and that the proclamation was published on such day. (See Birad Dan v. State: 1958 CriLJ 965). (xi) The conditions specified in section 82(2) of the Cr.P.C., 1973 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. (See Devendra Singh Negi alias Debu v. State of U.P. and another: 1994 CriLJ 1783 and Pal Singh v. The State: 1955 CriLJ 318)."

8. It is by now a settled principle of law that prior to issuing a proclamation under Section 82 Cr. P.C., the Court is required to record its satisfaction that the accused, against whom such proclamation is sought, is absconding or is concealing himself with the intention to evade arrest. This foundational and jurisdictional requirement is conspicuously absent in the present case. A perusal of the *zimni* orders appended with the petition shows that summons/ bailable/ non-bailable warrants/ proclamation were not executed upon the petitioner, in terms of provisions of Section 82 of the Cr. P.C. A perusal of the impugned order dated 20.11.2024 reveals that no such satisfaction has been recorded by the Court below, nor does the record disclose any material which could justify an inference that the petitioner had absconded or was deliberately avoiding his appearance before the Court. Furthermore, the issuance of bailable/

non-bailable warrants and proclamation without establishing proper service of earlier process(s) shows non-compliance with the due process of law, resulting in serious prejudice to the petitioner.

Record of the trial Court was summoned and a perusal thereof; especially report of the executing serving constable (Exhibit PB) reveals that the proclamation was not done in strict compliance to the provisions of Section 82 of the Cr. P.C.

9. The provisions of Section 82 of the Code of Criminal Procedure, having serious civil and criminal ramifications *qua* the rights of an accused, particularly affecting his liberty and participation in trial proceedings, cannot be invoked in a casual or cavalier manner. The mandatory requirement of recording satisfaction that the accused has absconded or is concealing himself so that the warrant of arrest cannot be executed, as embodied under Section 82 Cr.P.C., must be scrupulously complied with on the basis of cogent and relevant material available on record. Any non-adherence to this statutory mandate while declaring an accused as a proclaimed offender/person vitiates the proclamation proceedings in their entirety.

10. In the aforesaid backdrop, this Court is of the considered opinion that no useful purpose would be served by permitting the criminal proceedings to continue against the petitioner, which are founded upon an illegal and procedurally flawed proclamation. It is, therefore, a fit and appropriate case for the exercise of inherent powers under Section 528 of the BNSS / Section 482 of the Cr.P.C., so as to prevent abuse of the process of law and to secure the ends of justice.

11. In view of the above findings, and considering the entirety of the facts and circumstances of the present case, the present petition is allowed. Consequently, the impugned order dated 20.11.2024 (Annexure P-7) passed by the

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learned Sub Divisional Judicial Magistrate, Khanna, whereby, the petitioner was declared as proclaimed offender, in a case arising out of FIR No.148 dated 23.08.2023, under Section 27 of the NDPS Act, 1985, registered at Police Station City-2, Khanna, Punjab, as well as all consequential proceedings arising therefrom, are hereby quashed.

12. Pending application(s), if any, shall also stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

January 28, 2026
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No