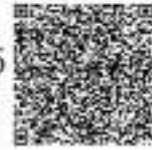


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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

157

CRM-M-68537-2025 (O&M)

Date of decision: 09.02.2026

Nitish @ Noor

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Aashish Aggarwal, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-5531-2026

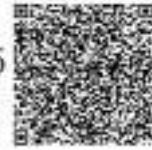
Allowed as prayed for. Documents are taken on record.

2. CRM-M-68537-2025 (O&M)

The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for quashing of order dated 10.04.2024 (Annexure P-4), passed by the Court of learned Additional Chief Judicial Magistrate, Amritsar in case arising out of FIR No. 304 dated 25.10.2023, registered under Section 302 read with Section 34 of IPC (Section 201 of IPC added later on) at Police Station Sadar Amritsar, District Amritsar, whereby the petitioner had been declared a proclaimed person.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in the aforementioned case. He was not aware about pendency of any such case against him. He was never served with any

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notice/warrants issued by the learned trial Court at his ordinary place of residence. More so, the petitioner had been declared a proclaimed person without following the proper procedure prescribed under Section 84 of BNSS. He is ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

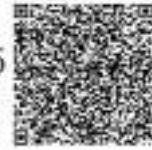
4. *Per contra*, learned Senior Deputy Advocate General, Punjab, who has advance notice of the petition and is ready to argue the matter, has resisted the petition by submitting that there is no infirmity in the impugned order and the petitioner has rightly been declared a proclaimed person as he was running away from the process of Court. It is, thus, urged that the petition is liable to be dismissed.

5. This Court has heard the rival submissions.

6. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proceedings under Section 84 of BNSS as against the petitioner till the date of declaring him a proclaimed person, this Court is of the considered opinion that the impugned order dated 10.04.2024 suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

7. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 30.01.2024, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against him for 10.04.2024. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has

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not recorded its proper satisfaction that that the petitioner had absconded or was concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence, which was in violation of the provisions of Section 84(1) of BNSS. Reliance in this regard can be placed upon ***Rohit Kumar Vs. State of Delhi : 2008 Crl. J. 2561.***

8. Further, a perusal of the statement of the serving police official reveals that the proclamation was not publicly read over in some conspicuous place of the town or village in which the petitioner was supposed to be residing. As per Section 84 (4) of BNSS, 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 84 (2)(i) of BNSS 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. Reliance in this regard can be placed upon ***Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368.***

9. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 10.04.2024 (Annexure P-4), passed by the Court of learned Additional Chief Judicial Magistrate, Amritsar in case arising out of FIR No. 304 dated 25.10.2023, registered under Section 302 read with Section 34 of IPC (Section 201 of IPC added later on) at Police

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Station Sadar Amritsar, District Amritsar, whereby the petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising therefrom.

10. However, the petitioner is directed to surrender before the Court concerned within a period of four weeks, subject to order for grant of anticipatory bail, if any passed on his petition to be filed under Section 482 of BNSS. In the absence of any order for grant of anticipatory bail and on such surrender, the petitioner shall be liable to be remanded to judicial custody subject to any order for grant of regular bail to be passed by the concerned Court in accordance with law.

11. Needless to observe that in case any application is filed before the concerned Court for grant of regular bail, then the concerned Court shall be bound to dispose of the same expeditiously and that nothing in this order shall be treated as expression of any opinion on merits so as to bind or influence the concerned Court in disposal of the same.

12. Till the appearance of the petitioner before the trial Court, his arrest shall remain stayed.

13. It is made clear that in case the petitioner fails to appear before the trial Court within a period of four weeks from today, this petition shall be deemed to be dismissed.

09.02.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No