



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

173

CRM-M-73632-2025

Date of decision: 25.02.2026

Narinder Singh Dhaliwal @ Neeta

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Iqbal Singh Saggu, Advocate and
Mr. Tejveer Singh Saggu, Advocate
for the petitioner.

AARADHNA SAWHNEY, J.(ORAL)

1. Petitioner, an accused in case FIR No.66 dated 25.05.2017 registered u/s 341, 323, 148, 149 IPC at Police Station Nihal Singh Wala, District Moga, has prayed for setting aside the order dated 25.07.2018 (Annexure P-3) passed by the learned SDJM, Nihal Singh Wala, Moga vide which he (P) was declared a 'Proclaimed Person'.

2. Three fold submissions have been raised by learned counsel for the petitioner. Firstly, it has been contended that on 14.03.2019, petitioner had left for foreign land. Copy of passport appended along with the petition as Annexure P-1/A has been referred to by the learned counsel. In the light of the same, proceedings u/s 105 Cr.P.C. (now Section 110 BNS) ought to have been initiated, however, learned trial Court without their being any cogent material available on record, wrongly presumed that the accused is intentionally avoiding to appear in the Court and initiated Proclamation Proceedings u/s 82 Cr.P.C. (now Section 84 BNSS) for 25.07.2018.



The second leg of submission raised by learned counsel for the petitioner is that similarly situated other accused, who faced trial have since been acquitted vide judgment dated 24.01.2023 passed by learned Sessions Judge, Moga. Petitioner is willing to surrender before the Court and face the trial.

The third leg of submission raised by learned counsel for the petitioner is that parties have amicably settled their dispute vide compromise deed dated 20.12.2025 (Annexure P-6).

In the view of the above, learned counsel for the petitioner further submits that proclamation order dated 25.07.2018 being not in 'sync' with law, is illegal. It is further the contention of the learned counsel that now the petitioner is wanting to return back to India and join the trial proceedings. Learned counsel further intimates that on coming to India, petitioner would surrender before the Court concerned. However, he requests that the petitioner may kindly be granted adequate protection from his arrest, thereby enabling him to surrender before the learned trial Court/Illaq Magistrate concerned.

Mr. A.S. Sandhu, Advocate has filed his power of attorney on behalf of respondent No.2, which is taken on record. He endorses the factum of compromise.

3. Heard. Documents on record perused.
4. Before proceeding further, let us carefully go through Section 105 Cr.P.C., which reads as under:-

“105. Reciprocal arrangements regarding processes.



(1) Where a Court in the territories to which this Code extends (hereafter in this section referred to as the said territories) desires that

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or

(d) a search-warrant,

[issued by it shall be served or executed at any place, -

(i) xxxxxxxx

(ii) in any country of place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation

to criminal matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and sent to such authority for transmission, as the Central Government may, by notification, specify in this behalf;]

(2) Where a Court in the said territories has received for service or execution -

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

(c) a summons to any person requiring him to attend and produce a document or other thin or to product it, or

(d) a search-warrant,

[issued by -

(i) a Court in any State or are in India outside the said territories;



(ii) a Court, Judge or Magistrate in a contracting State, it shall cause the same to be served or executed] as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where -

(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by Sections 80 and 81;

(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by Section 101 :

[Provided that in a case where a summons or search warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall be forwarded to the Court issuing the summons or search warrant through such authority as the Central Government may, by notification, specify in this behalf.]”

In the case in hand, admittedly, it was intimated to the trial Court that the petitioner has left for foreign land. In this eventuality, trial Court should have adhered to the procedure so prescribed under Section 105 (1)(ii) Cr.P.C., rather Proclamation Proceedings u/s 82 Cr.P.C. were initiated to procure presence of petitioner. Furthermore, without there being any material on record, to conclude that despite being aware of the pendency of proceedings, petitioner is deliberately avoiding to appear in the Court, the initiation of proclamation proceedings were unwarranted.

For want of compliance of the procedure so mentioned in Code of Criminal Procedure, proclamation order dated 25.07.2018 is hereby set aside. In view of the prayer made by learned counsel, coupled with the fact that the petitioner is ready and willing to return to India and to surrender



before the learned trial Court/Illaqa Magistrate concerned, and that, the underlying object behind declaring any person a “Proclaimed Person/Offender” is to secure his presence for facing trial, this Court deems it appropriate to grant an opportunity to the petitioner to surrender before the learned trial Court/Illaqa Magistrate concerned within a period of 07 days from today i.e. till 03.03.2026. The arrest of petitioner shall remain stayed only up to 03.03.2026. He shall not be arrested at the Airport concerned, upon his arrival from abroad. In case, he surrenders before the Court concerned, he be released on furnishing fresh bail bonds/surety bonds to the satisfaction of the trial Court.

However, it is clarified that if the petitioner does not, comply with aforesaid direction and surrender before the learned trial Court/Illaqa Magistrate concerned upto the stipulated period, the protection regarding his arrest, as granted hereinabove, shall stand *ipso facto* vacated, without any further reference to this Court.

It is also clarified that the moment the petitioner surrenders, this order granting interim protection would cease to operate, and thereupon, the learned trial Court/Illaqa Magistrate concerned shall proceed further in accordance with law. No observations made hereinabove shall have any bearing on the merits of the bail application, which shall be decided, as per law.

5. Accordingly, the instant petition stands disposed of.

(AARADHNA SAWHNEY)
JUDGE

25.02.2026
Hemant

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