



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

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CRM-M-73108-2025 (O&M)

Date of decision: 10.02.2026

Sarabjot Singh @ Sarbjot Singh

....Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Himmat Singh, Advocate for the petitioner

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition filed under Section 528 BNSS for quashing of FIR No.52 dated 20.06.2016, registered at Police Station Sekhwan, Tehsil Batala, District Gurdaspur, under Sections 307, 341, 241, 34 IPC & 25/27 of Arms Act as well as the orders dated 01.09.2016 and 25.11.2016, whereby the petitioner has been declared as proclaimed offender.
2. Learned counsel for the petitioner does not press the petition quashing of FIR and withdraws it to take all pleas before the trial Court at an appropriate stage.
3. Insofar as the prayer for quashing of order dated 25.11.2016 is concerned, he submits that the anticipatory bail filed by the petitioner was dismissed on 29.09.2016, Annexure P-3, however, even prior thereto he has gone to Canada on 20.08.2016 to complete his education, reference in this regard is made to the passport, Annexure P-4. However, due to COVID-19 pandemic, his financial circumstances deteriorated severely, to the extent that he was rendered homeless and was compelled to beg for money for a period of



time. Although he eventually managed to stabilise his situation sufficiently to secure basic shelter, his financial distress was such that he was forced to take up employment as a manual labourer despite holding a diploma qualification. Thereafter, for want of employment, he had gone USA, where his contractor had assured him that a valid contract visa had been arranged for the execution of a large-scale township construction project south of the Canadian border and the petitioner was apprehended by unidentified authorities and was deported to India in November, 2025 as a part of mass deputation carried by USA. During the interregnum, co-accused were acquitted on merits vide judgments dated 16.12.2019 and 02.12.2021, Annexure P-9 and P-10 respectively, that included the co-accused, who was also declared proclaimed offender. The trial Court without procuring his foreign address, had initiated proclamation proceedings despite the fact that he was not in India, however, he was however declared proclaimed person vide order dated 20.06.2016, without following the procedure under Sections 41, 105 and 82 Cr.P.C. in letter and spirit, during which period, he was in Canada. Even 30 days period was also not been granted to him as reflected from the order dated 01.09.2016, Annexure P-12. 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. Thus the proclamation proceedings being in violation thereof are liable to be set aside, however, he is ready and willing to surrender before the trial Court for which he seeks only one opportunity, 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.

3. Notice of motion.

4. At the asking of the Court, Ms. Gagandeep Kaur, DAG Punjab accepts notice on behalf of respondent-State and submits that the trial Court has rightly passed the order as the petitioner did not appear before the Court and evaded the proceedings.

5. No order prejudicial to the rights of the private respondent is being proposed to be passed by this Court, thus, thus, no notice is required to be issued.

6. Heard the learned counsel for the parties.

7. 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.”

8. A gainful reference can be made to the judgment in **Ashok Kumar** (supra), relevant para of which 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.”

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. Reverting to the facts of the present case inasmuch as it was because the petitioner had moved abroad, prior to the passing of the impugned order and the procedure as envisaged by the Code not followed in letter and spirit, he could not be served and as such, his explanation for absence appears to be justified.

15. Considering the fact that the absence of the petitioner was not wilful or deliberate and his 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 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.

16. In view of the afore-mentioned judgments and the facts and circumstances of the case, the impugned order dated 25.11.2016, Annexure P-8, is set aside.

17. He is directed to surrender before the trial Court on or before 28.02.2026, 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. The petitioner is at liberty to apply for anticipatory/regular bail in the main case before the learned trial Court, which shall be decided on the same day, in accordance with law.

18. The petition is disposed of.

19. 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

10.02.2026
M.Kamra

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