



117

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

CRM-M-50525-2025 (O&M)

Reserved on 25.09.2025

Pronounced on 30.09.2025

Bhanu Sharma

..... Petitioner

Versus

State of Punjab and Another

.....Respondents

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL.

Present: Mr. Swarn Tiwana, Advocate
for the petitioner.

Mr. Kunwarbir Singh, AAG Punjab.

Mr. Satvir Singh, Advocate
for respondent No.2.

SHALINI SINGH NAGPAL J.

CRM-38771-2025

Application under Section 528 of BNSS, 2023 for preponement of the case is allowed and the main case is taken on board today itself.

CRM-38774-2025

Application under Section 528 of BNSS, 2023 for placing on record copy of daily orders as Annexures P6 to P10 is allowed and Annexures P6 to P10 are taken on record, subject to all just exceptions. Papers be tagged at appropriate place.

CRM-M-50525-2025

1. Petitioner Bhanu Sharma, accused in FIR No.55 dated 27.07.2019 under Sections 406 and 498-A Indian Penal Code, Police Station Women, District Patiala has filed a petition under Section 528 of Bharatiya



Nagarik Suraksha Sanhita (BNSS), 2023 for quashing order dated 20.04.2020 of learned JMIC (D), Patiala vide which he was declared a “proclaimed person”.

2. Learned counsel for the petitioner submits that petitioner left the country and moved to Canada in 2019, much prior to registration of the FIR. He did not ever join investigation and the order declaring him ‘proclaimed person’ was against the mandatory provisions of law. He further submits that there was no *prima facie* satisfaction recorded by learned JMIC, Patiala in order dated 18.01.2020 that the petitioner had absconded or was concealing himself or that the warrant of arrest previously issued could not be executed. It is argued that order dated 20.04.2020 of learned JMIC (D), Patiala was in violation of settled procedure under Section 82 Cr.P.C.; that the proclamation was issued on 22.01.2020 for 02.03.2020 but was published only on 29.02.2020. Thus, mandatory period of 30 days was not granted to the petitioner to appear before learned JMIC, Patiala. On 20.03.2020, learned JMIC, Patiala simply adjourned the case to 20.04.2020 in order to complete the statutory period, which was not permissible in law. Thus, the order under challenge deserved to be set aside.

3. Notice of motion.

4. On asking of the Court, Mr. Kunwarbir Singh, AAG Punjab, accepts notice on behalf of the State. Mr. Satvir Singh, Advocate accepts notice on behalf of Respondent No.2 and places on file his memorandum of appearance. Learned State counsel has supported impugned order of learned trial Court submitting that there was no violation of procedure.

5. Section 82 Cr.P.C. which provides for publication of proclamation against a person absconding is reproduced hereunder for the



facility of reference:-

—(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. 50 1

[(4) Where a proclamation published under sub-section (1) is in



respect of a person accused of an offence punishable under section 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).]

6. A co-ordinate Bench of this Court in **CRM-M-41715-2021** titled **“Anita Sharma Vs. State of Punjab”**, date of decision **26.03.2021**, has summarized the essential requirements of Section 82 Cr.P.C. 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 Vs. 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.. (See **Rohit Kumar Vs. 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 Vs. Emperor:***

*AIR 1943 Patna 366 and **Devender Singh Negi Vs. State of U.P.:** 1994 CrL 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 Vs. State of Mysore** 1969 CriLJ 826 and **Shokat Ali Vs. 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*

*4 of 8 declared a proclaimed person/offender and the proclamation has to be issued and published again. (See **Dilbagh Singh Vs. State of Punjab (P&II):***

*2015 (8) R.C.R. (criminal) 166 and **Ashok Kumar Vs. 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.. 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. 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 Vs. 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 Court-house 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 Vs. 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.. 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 Vs. State**: 1958 CriLJ 965).*

*(xi) The conditions specified in Section 82(2) of the Cr.P.C. 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 Vs. State of U.P. and another** 1994 CriLJ 1783 and **Pal Singh Vs. The State**: 1955 CriLJ 318)".*

7. Copies of orders dated 18.01.2020, 02.03.2020 and 20.04.2020 of learned JMIC, Patiala have been placed on record. For the first time, proclamation was issued against Bhanu Sharma on 18.01.2020 for 02.03.2020 when arrest warrants of the accused were received back unexecuted. There is no *prima facie* satisfaction recorded in the order dated 18.01.2020 that the petitioner had absconded or was concealing himself or that the warrant of arrest previously issued cannot be executed. On this ground alone, the order under challenge deserves to be set aside.

8. The proclamation warrant under Section 82 Cr.P.C (Annexure P7) reflects that it was issued on 22.01.2020 for 02.03.2020. Statement of



SC Varinder Singh shows that the proclamation was published on 29.02.2020. On 02.03.2020, learned JMIC observed that proclamation issued against the petitioner was received back duly effected, statement of serving official was recorded. As statutory period of 30 days had not elapsed, learned JMIC, adjourned the case to 20.04.2020 for awaiting presence of accused.

9. In **Dilbagh Singh @ Sonu Vs. State of Punjab CRM-M-4100-2015, date of decision 05.05.2015**, it was observed as under:

"In order to ensure that an accused should have a fair opportunity to appear, 30 days clear notice is necessary and the proclamation should be published in the manner provided by law. In the instant case, proclamation of the petitioner was issued on 20.08.2014 for 23.08.2014 and vide impugned order dated 25.09.2014 petitioner was declared proclaimed offender. It is apparent on the face of record that clear notice of 30 days as mandated under Section 82 Cr.P.C. has not been given to the petitioner and the procedure for publication of proclamation has also not been followed. Besides that, there is nothing on record to show that provisions of sub-section 2(i) of Section 82 Cr.P.C. have been complied with. As per these provisions a notice of proclamation is required to be read publicly in some conspicuous place of the town or village in which such person ordinarily resides. It is also required to 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. A copy of the notice is also required to be



affixed to some conspicuous part of the Court-house. Thus, petitioner has been wrongly declared proclaimed offender vide impugned order without following the procedure of law.

10. Similarly in **CRM-M-1866-2017 titled 'Avtar Singh Vs. State of Punjab and Another'** a Coordinate Bench of this Court observed as under:-

"The above quoted provision is clear that through the proclamation made prior to declaration of a person as a proclaimed offender, he should be given not less than thirty days from the date of its proclamation to appear at a specified place and a specified time.

In the case in hand, thirty days were not given to the petitioner to appear before the Trial Court as the proclamation was made on 13.05.2011 requiring him to appear before the Trial Court on 14.05.2011. Thus, the proclamation and the subsequent order dated 03.09.2011 (Annexure P-2) declaring the petitioner to be a proclaimed offender do not confirm with the mandate of Section 81(1) of the Code".

11. Since the proclamation was published on 29.02.2020, it implies that petitioner was given only 2 days to cause appearance before learned JMIC, Patiala. The statutory period of 30 days was not given to the petitioner. The adjournment from 02.03.2020 to 20.04.2020, can never be construed as sufficient compliance of the provisions of Section 82(1) of the Cr.P.C. Thus, in view of the mandate of Section 82 Cr.P.C. and ratio laid down by this Court in **Ashok Kumar Vs. State of Haryana and Another 2013 (4) RCR (Criminal) 550** and **Navneet Sharma Vs. State of Punjab**



and Others, 2024 NCPHHC 10973, the impugned order cannot stand.

12. Consequently, impugned order dated 20.04.2020 of learned JMIC, Patiala declaring the petitioner a 'proclaimed person' cannot be sustained in law and is hereby set aside and quashed. Since, petitioner has not ever joined investigation, he is directed to surrender before learned JMIC, Patiala, within a period of one month from today. Learned JMIC, Patiala shall proceed further in the matter, in accordance with law, subject to orders of grant of anticipatory bail, if any. On such surrender, petitioner shall be liable to be remanded to custody, subject to any order of regular bail passed by the concerned Court, in accordance with law.

13. It is, however, clarified that in case petitioner fails to appear before learned trial Court within the stipulated time, the petition shall be deemed to be dismissed.

14. The petition is allowed, on the terms above.

15. Pending miscellaneous applications, if any, stand disposed of.

(SHALINI SINGH NAGPAL)
JUDGE

30.09.2025
Sumit Singla

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No