



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

121

CRM-M-43899-2025

Date of decision: 22.08.2025

Vikas Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Varun Goyal, Advocate
for the petitioner.

AARADHNA SAWHNEY, J.(ORAL)

1. Petitioner, an accused in FIR bearing No.133 dated 09.12.2019 registered under Section 13 of the Public Gambling Act, 1867 at Police Station Division No.2, Police Commissionerate, Jalandhar, has prayed for quashing of order dated 06.11.2023 (Annexure P-1), vide which he was declared Proclaimed Offender by the learned JMIC, Jalandhar.

2. Relevant facts as can be inferred from the documents on record be noticed hereinbelow:-

Petitioner along with 4 persons were found indulging in gambling, in the house of one Baldev Raj @ Mantu. Resultantly, the above-said FIR was registered against all of them. On culmination of investigation, challan was filed against all five.

After presentation of challan, summons were issued to effect service upon all the accused including the petitioner. However, the summons to procure his presence were received back unserved, but the learned trial Court presumed that being well aware about the pendency of the case, petitioner has deliberately not appeared. Thus, bailable warrants were issued to procure his presence for 23.08.2023. On the said day, i.e. 23.08.2023, bailable warrants were received back unserved but



again it was presumed that petitioner is intentionally not appearing before the Court, resultantly, non-bailable warrants of arrest were issued, against him (Petitioner) for 21.09.2023.

Copies of the interim orders that have been appended along with the petition further reveal that on 21.09.2023, non-bailable warrants issued against petitioner were received back with the report that his house is lying locked.

Learned trial Court, in the absence of any cogent evidence/document assumed that petitioner is deliberately avoiding to appear before the Court as also that he has absconded and thus issued proclamation under Section 82 Cr.P.C. directing petitioner to appear at 10 a.m. on 06.11.2023, in the Court. At the same time, the executing constable was directed to get his statement recorded on 04.10.2023.

Perusal of the report of executing constable dated 25.09.2023 (Annexure P-6), when read carefully goes to show that one copy of the proclamation was pasted by him outside the house of the accused, the second in an open place where the public visits (the place has not been specified) and the third copy of the said notice was pasted on the notice board of the Court.

It is, thus, clear that one of the essential requirements of sub Section(2)(i)(a) of Section 82 Cr.P.C. was not complied with, inasmuch as the declaration was not read publicly by executing constable, in some conspicuous place where the accused ordinarily resides.

3. Resultantly, in view of the discussion made hereinabove, the impugned order dated 06.11.2023, whereby the petitioner was declared Proclaimed Offender, is set aside.

4. During the course of submissions, it also came to the notice of the Court that the other co-accused, who faced trial, were convicted for offence punishable under Section 13 of the Public Gambling Act, 1867 by



the learned trial Court vide order dated 02.12.2023 and were sentenced to pay a fine of Rs.50/-, in default thereof to undergo simple imprisonment for a period of 5 days (which can be inferred from copies of the interim orders appended along with petition).

Counsel for the petitioner submits that if granted the concession of bail, petitioner would regularly attend the proceedings.

5. Resultantly, the present petition is allowed. Petitioner is directed to appear before the Court concerned within a period of 21 days. He shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would also submit specific undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

(AARADHNA SAWHNEY)
JUDGE

22.08.2025

Hemant

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