

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

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**CRM-M-10160-2025 (O&M)
Date of decision: 20.03.2025**

Amit @ Mittu**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

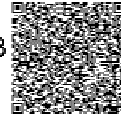
Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of order dated 18.10.2023 (Annexure P-3), passed by the Court of learned Judge, Special Court, Gurdaspur in case titled as ***State vs. Amit @ Mittu***, arising out of FIR No. 91 dated 20.08.2019, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Dhariwal, District Gurdaspur, whereby the petitioner had been declared a proclaimed offender.

2. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in the aforementioned case. The petitioner was granted concession of interim bail by the learned trial Court, vide order dated 18.09.2019 and of learned this Court on 14.09.2018. Challan was presented on 06.01.2020 charges were framed on 27.01.2020. Thereafter, the case was being adjourned by orders due to outbreak of Covid-19 pandemic. When the case was actually taken up in

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the year 2021, the petitioner could not appear before the Court as he was not aware of the said fact, which resulted into cancellation of his bail and ultimately into his declaration as a proclaimed offender. It is argued that the petitioner was never served with any notice/warrants issued by the learned trial Court and had been declared a proclaimed person without following the proper procedure prescribed under Section 82 of Cr.P.C. Hence, it is urged that the impugned order is liable to be set aside.

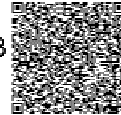
3. *Per contra*, learned State counsel has argued that the petitioner was having knowledge about the pendency of the trial and had intentionally avoided his appearance before the learned trial Court. Therefore, he had rightly been declared a proclaimed offender. Hence, it is urged that the petition is liable to be dismissed.

4. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

5. 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 82 of Cr.P.C. as against the petitioner till the date of declaring him a proclaimed offender, I am of the considered opinion that the impugned order dated 18.10.2023 suffers from some illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

6. 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 21.01.2021, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of

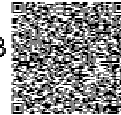
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proclamation against him for 25.02.2022. Thereafter, on several subsequent dates, fresh proclamation was ordered to be issued against the petitioner as the earlier one was not received back. Eventually, the proclamation issued on 22.08.2023 for 18.10.2023 culminated and the petitioner was declared a proclaimed offender. However, a perusal of the statement of the serving police official ASI Gurmej Singh reveals that the proclamation was not read over in some conspicuous place of the town or village in which the petitioner was supposed to be residing. As per Section 82 (2) of 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. Reliance in this regard can be placed upon *Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368*.

7. 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 18.10.2023 (Annexure P-3), passed by the Court of learned Judge, Special Court, Gurdaspur in case titled as *State vs. Amit @ Mittu*, arising out of FIR No. 91 dated 20.08.2019, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Dhariwal, District Gurdaspur, whereby the petitioner had been

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declared a proclaimed offender, whereby the petitioner had been declared a proclaimed offender, is quashed with all consequential proceedings arising therefrom.

8. Keeping in view the fact that the petitioner is ready to join the Court proceedings which would obviously help in speedy disposal of the trial, he is directed to surrender before the learned trial Court within a period of 04 weeks from today and on doing so, the learned trial Court shall release him on bail, subject to his furnishing fresh personal/surety bonds to its satisfaction.

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

10. It is made clear that in case the petitioner fails to appear before the learned trial Court within the stipulated time, this petition shall be deemed to be dismissed.

11. However, this relief shall be subject to payment of cost of Rs. 10,000/-, to be deposited by the petitioner with the District Legal Services Authority, Gurdaspur.

20.03.2025*Waseem Ansari***(MANISHA BATRA)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*