



131 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-52872-2024 (O&M)

Date of Decision: 22.07.2025

SANDEEP SINGH

...Petitioner

V/S

PARAMJIT SINGH

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Taresh Makkar, Advocate
for the petitioner. (through video conferencing).

HARPREET SINGH BRAR J. (Oral)

1. The present petition has been filed under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking quashing of the order dated 16.08.2024 (Annexure P-6) (wrongly mentioned as P-1) passed by learned Judicial Magistrate Ist Class, Patiala vide which the petitioner has been declared as proclaimed person in complaint case filed under Section 138 of Negotiable Instruments Act, 1881 bearing No. COMA-832-2020 dated 28.08.2020 titled as *Paramjit Singh Vs. Sandeep Singh*.

2. Learned counsel appearing for the petitioner *inter alia* contends the petitioner was invited to participate in the All Assam Amateur Muaythai Association at Guahati from 01.05.2024 to 30.06.2024 and because of which, the petitioner could not attend the proceedings before the learned trial Court on 06.05.2024. Thereafter, unfortunately the petitioner met with a serious accident, wherein he received multiple injuries. Therefore, the petitioner could not inform his counsel and non-bailable warrants were issued against him vide order dated 06.05.2024 and subsequently he was declared as proclaimed person vide impugned order dated 16.08.2024. Learned counsel further contends that petitioner was declared proclaimed person vide the



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impugned order without following the proper procedure and the impugned order is liable to be set aside on the ground that the mandate of Section 82(1) of Cr.P.C. has not been followed in its letter and spirit by the trial Court as the warrants of arrest were never served to the petitioner.

3. I have heard learned counsel for the petitioner and perused the record of the case with his able assistance and the present petition is decided in *limine* to save the litigation cost of respondent and also to save precious time of the Court.

4. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

5. A perusal of the impugned order reveals that the trial Court issued proclamation without recording reasons of its belief that the petitioner has absconded or is concealing himself. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. In the judgment passed by this Court in ***Sonu Vs. State of Haryana 2021 (1) RCR (Crl.) 319***, it has been held that the conditions specified in Section 82 (2) Cr.P.C. for the publication of a proclamation



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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.

6. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court.

7. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 16.08.2024 (Annexures P-6) vide which the petitioner was declared as proclaimed person, is hereby set aside along with all consequential proceedings arising therefrom. The petitioner is directed to appear before the trial Court within four weeks and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs. 10,000/- to be deposited with the PGIMER Poor Patient Welfare Fund, Chandigarh for wasting precious time of the Court.

8. The receipt of payment of costs imposed must be presented before learned trial Court. The learned Court below is directed to grant bail to the petitioner only upon verification of payment of said cost.

9. However, in case, the petitioner fails to surrender before the learned Court below within the stipulated time period, the interim protection granted by this Court, shall be deemed to be vacated.

22.07.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No