



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

129

CRM-M-52964-2025

Date of Decision : 24.09.2025

Amit Garg and Anr

...Petitioners

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Kamalpreet Bawa, DAG Punjab.

AARADHNA SAWHNEY, J. (ORAL)

Petitioners, who are an accused in FIR No.74 dated 18.04.2015 registered against them at P.S Taraori, District Karnal for commission of offences under Sections 406,420,34 IPC, have prayed for quashing the aforesaid FIR and all consequential proceedings arising therefrom including order dated 23.03.2016, vide which petitioner No.1 was declared Proclaimed Offender.

2. Learned counsel for the petitioners restricts his submissions to quash impugned order dated 23.03.2016, vide which petitioner No.1 was declared Proclaimed Offender. Short submission raised by learned counsel is that prior to the registration of the aforesaid FIR in February 2015, petitioners had left India. None of them was aware of the proceedings initiated against them. Further, learned trial Court did not adhere to the procedure so prescribed under Section 105 (1)(ii) Cr.P.C to effect the service of summons upon them. Impugned order dated 23.03.2016 was passed in routine mechanical manner, which on the face of it, being not *in sync* with law is illegal. It is further the contention of the learned counsel that now the petitioner No.1 is wanting to return back to India and join the



trial proceedings. Learned counsel further intimates that on coming to India, petitioner No.1 would surrender before the Court concerned. However, he requests that the petitioner No.1 may kindly be granted adequate protection from his arrest, thereby enabling him to surrender before the learned trial Court/Illaq Magistrate concerned.

In view of the submissions made hereinabove, learned counsel submits that a lenient view be taken in favour of the petitioner No.1, who undertakes to appear before the trial Court.

3. Heard. Before proceeding further, let us carefully go through Section 105 Cr.P.C, which reads as under:-

“105. Reciprocal arrangements regarding processes.

(1) Where a Court in the territories to which this Code extends (hereafter in this section referred to as the said territories) desires that

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or

(d) a search-warrant,

[issued by it shall be served or executed at any place, -

(i) xxxxxxxx

(ii) in any country of place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation to criminal matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and sent to such authority for transmission, as the Central Government may, by notification, specify in this behalf;]

(2) Where a Court in the said territories has received for service or execution -

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

(c) a summons to any person requiring him to attend and produce a document or other thin or to product it, or

(d) a search-warrant,

[issued by -

(i) a Court in any State or are in India outside the said territories;



(ii) a Court, Judge or Magistrate in a contracting State, it shall cause the same to be served or executed] as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where -

(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by Sections 80 and 81;

(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by Section 101 :

[Provided that in a case where a summons or search warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall be forwarded to the Court issuing the summons or search warrant through such authority as the Central Government may, by notification, specify in this behalf.]”

4. In the case in hand, admittedly, it was intimated to the trial Court that the petitioners had left for foreign land. In this eventuality, trial Court should have adhered to the procedure so prescribed under Section 105 (1)(ii) Cr.P.C., rather non-bailable warrants were repeatedly issued on their present residential address and based upon the report that non-bailable warrants had been received back unexecuted, learned trial Court presumed that they are deliberately not appearing and thus, initiated the proclamation proceedings.

5. For want of compliance of the procedure so mentioned in Code of Criminal Procedure, proclamation order dated 23.03.2016 is hereby set aside. In view of the prayer made by learned counsel, coupled with the fact that the petitioner No.1 is ready and willing to return to India and surrender before the learned trial Court/Illaq Magistrate concerned, and that, the underlying object behind declaring any person a “*Proclaimed Person/Offender*” is to secure his presence for facing trial, this Court deems it appropriate to grant an opportunity to the petitioner No.1 to surrender before the learned trial Court/Illaq Magistrate concerned within a period of 15 days from today i.e. till 09.10.2025. The arrest of petitioner No.1 shall remain stayed only up to 09.10.2025 and he shall not be arrested at the Airport concerned, upon his arrival from abroad.



6. However, it is clarified that if the petitioner does not, comply with aforesaid direction and surrender before the learned trial Court/Illaqa Magistrate concerned upto the stipulated period, the protection regarding his arrest, as granted hereinabove, shall stand *ipso facto* vacated, without any further reference to this Court.

7. It is also clarified that the moment the petitioner No.1 surrenders, this order granting interim protection would cease to operate, and thereupon, the learned trial Court/Illaqa Magistrate concerned shall proceed further in accordance with law. No observations made hereinabove shall have any bearing on the merits of the bail application, which shall be decided, as per law.

8. Accordingly, the instant petition stands disposed of.

9. Any other application(s), if any, also stands disposed of.

(AARADHNA SAWHNEY)
JUDGE

24.09.2025

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<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>