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

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CRM-M-30686-2025 (O&amp;M)

Date of decision: 11.08.2025

**Sukhwinder Singh****...Petitioner****Versus****Union Territory, Chandigarh****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Naveen Kumar, Advocate  
for the petitioner.

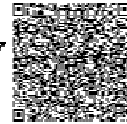
Mr. Virat Rana, Addl. P.P., U.T., Chandigarh.

**MANISHA BATRA, J. (Oral)**

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for quashing of order dated 25.01.2023 (Annexure P-4), passed by the Court of learned Judicial Magistrate First Class, Chandigarh in case titled as ***State vs. Sukhwinder Singh and others***, arising out of FIR No. 395 dated 02.11.2019, registered under Sections 420 and 120-B of IPC and Section 24 of the Emigration Act, 1983 at Police Station Sector 39, Chandigarh, whereby the petitioner had been declared a proclaimed person.

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 on bail. However, he absented himself on 12.05.2022 due to unawareness that his presence was required, consequent to which, his bail was cancelled and non-bailable warrants were issued against him. Subsequently, the petitioner could not appear before the Court as he was never served with any notice/warrants issued by the learned trial

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Court. More so, the petitioner had been declared a proclaimed person without following the proper procedure prescribed under Section 82 of Cr.P.C. He is ready to join the Court proceedings. Even otherwise, the matter stands amicably settled between the parties and a petition seeking quashing of the FIR in question, bearing number **CRM-M-46229-2022**, has been filed before this Court, whereby the parties have been directed to get their statements recorded in support of the alleged compromise. Hence, it is urged that the impugned order is liable to be set aside.

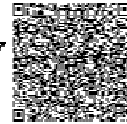
3. *Per contra*, learned Additional Public Prosecutor, Chandigarh has resisted the petition by submitting that there is no infirmity in the impugned order and the petitioner has rightly been declared a proclaimed person as he was running away from the process of Court. It is, thus, urged that the petition 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 Cr.P.C. as against the petitioner till the date of declaring him a proclaimed absconder, I am of the considered opinion that the impugned order dated 25.01.2023 suffers from material 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 01.11.2022, 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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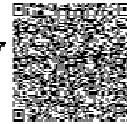


proclamation against him for 25.01.2023. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has not recorded its proper satisfaction that that the petitioner had absconded or was concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence, which was in violation of the provisions of Section 82(1) of Cr.P.C. Reliance in this regard can be placed upon ***Rohit Kumar Vs. State of Delhi : 2008 CrI. J. 2561.***

7. Further, a perusal of the endorsement made by the serving police official on the proclamation reveals that the proclamation was executed on 15.11.2022 but it was not publically 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.***

8. 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 25.01.2023 (Annexure P-4), passed by the Court of learned Judicial Magistrate First Class, Chandigarh in

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case titled as ***State vs. Sukhwinder Singh and others***, arising out of FIR No. 395 dated 02.11.2019, registered under Sections 420 and 120-B of IPC and Section 24 of the Emigration Act, 1983 at Police Station Sector 39, Chandigarh, whereby the petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising therefrom.

9. Keeping in view the fact that the petitioner is ready to join the Court proceedings and the parties have amicably settled their dispute, he is directed to surrender before the learned trial Court within a period of 02 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.

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

11. 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.

12. **However, this relief shall be subject to payment of cost of Rs.5,000/-, to be deposited by the petitioner with the Punjab and Haryana High Court Employees' Welfare Union, Chandigarh.**

11.08.2025

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