

**CRM-M-31629-2025****1****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Case No. : CRM-M-31629-2025****Pronounced On : September 02, 2025**

Gurpartap Singh Gill and another Petitioners

vs.

State of Punjab and another Respondents

CORAM : HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

* * *

Present : Mr. R. K. Bajaj, Advocate
for the petitioner.

Ms. Gagandeep Kaur, DAG, Punjab.

* * *

SUKHVINDER KAUR, J. :

Through the present petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS) Act, 2023, petitioners are seeking quashing of proclamation order dated 05.05.2025, passed by Ms. Harpreet Kaur, Additional Chief Judicial Magistrate (ACJM), Jalandhar in FIR No.94 dated 07.06.2023, under Sections 406, 420, 34 IPC and Section 13 of Punjab Travel Professions Regulation Act (for brevity - PTPR Act), registered at Police Station Sadar, Commissionerate Jalandhar.

Brief facts of the case are that a complaint against both the petitioners was filed by complainant/respondent no.2, alleging therein that they had taken an amount of Rs.11 lacs from him, on the pretext of sending him abroad but neither he was sent abroad nor his money was returned. On the complaint of complainant/respondent no.2, FIR in question was

**CRM-M-31629-2025****2**

registered against the petitioners.

A bare perusal of record shows that on 17.02.2025, on application moved by the police, seeking permission to arrest the petitioners, their warrants of arrest were issued, returnable for 27.02.2025 but since the petitioners had left their residence and their further address was not known to anyone, the warrants remained unexecuted and as such, request for issuance of proclamation was made by the police. The concerned Court ordered the petitioners to be served through proclamation vide order dated 27.02.2025 and the case was adjourned to 03.04.2025. On 03.04.2025, the proclamation was received back effected on 02.03.2025 and the presence of the petitioners was ordered to be awaited till 05.05.2025. However, on 05.05.2025, when the petitioners failed to appear before the Court, they were declared proclaimed offenders. Hence, they have approached this Court to quash the said order dated 05.05.2025.

Learned counsel for the petitioners contended that both the petitioners are not indulging in travel agent business. Rather, respondent no.2/complainant is a travel agent and used to obtain blank signed cheques from innocent persons and had been convicted in several cases. Learned ACJM, Jalandhar granted permission to the police authorities for arrest of the petitioners and issued arrest warrants returnable for 27.02.2025. Thereafter, on 27.02.2025, the order regarding issuance of proclamation against the petitioners was passed and proclamation under Section 84 BNSS was issued for 03.04.2025. Vide order dated 03.04.2025, the case was adjourned for 05.05.2025 for awaiting presence of the petitioners. On



05.05.2025, the petitioners were declared proclaimed offenders. He argued that both the petitioners were declared proclaimed offenders without following the procedure of law as envisaged in Section 84 BNSS, 2023 as the conditions mentioned in the said Section were overlooked and due process of law was not adopted before declaring the petitioners proclaimed offenders. No reason regarding satisfaction of learned ACJM was recorded and there was no proper publication of proclamation, as is mandatory. No summons, bailable warrants or non-bailable warrants and proclamation were served upon the petitioners. It has also not been proved on record that the petitioners were ever served with summons, bailable warrants, non-bailable warrants or proclamation. Learned counsel has thus contended that the impugned order dated 05.05.2025 is liable to be set aside and has submitted that the petitioners undertake to appear before the concerned Court on each and every date of hearing.

Notice of motion.

Pursuant to advance notice issued to the office of Advocate General, Punjab, Ms. Gagandeep Kaur, DAG, Punjab is present to assist the Court. She contended that the petitioners have been rightly declared proclaimed offenders vide the impugned order dated 05.05.2025 as they intentionally and deliberately did not appear before the Court of learned ACJM, Jalandhar.

I have heard learned counsel for the parties and have also gone through the case record.

While issuing proclamation, it was incumbent upon the Trial



Court to record reasons of its satisfaction/belief that petitioners have absconded or concealing themselves, which is missing in the impugned order. Reliance in this context has been placed on a judgment passed in **Major Singh @ Major vs. State of Punjab – 2023 (3) RCR (Criminal) 406**, wherein it has been held that the Court is first required to record its satisfaction before issuance of process under Section 82 Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. In another judgment passed by this Court in **Sonu vs. State of Haryana – 2021(1) RCR (Criminal) 319** also, it has been held that the conditions specified in Section 82(2) Cr.P.C., for publication of proclamation 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. Otherwise also, it is not proved that non-bailable warrants were ever served upon the petitioners.

The purpose of issuing non-bailable warrants or proclamation is also to secure presence of accused persons before the Court. The petitioners in the present case have undertaken to appear before the Court concerned on each and every date.

In view of the aforesaid facts and circumstances, the impugned order is set aside and petitioners are directed to appear before the learned Trial Court within a period of three weeks from today. On doing so, they shall be admitted to bail on furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court, subject to deposit of Rs.8,000/- each with District Legal Services Authority, Jalandhar.

**CRM-M-31629-2025****5**

The learned Trial Court is directed to grant bail to the accused persons, after verifying the deposit of aforesaid amount. However, if the petitioners fail to appear before the learned Trial Court, the interim protection granted by this Court shall be deemed to be vacated.

September 02, 2025*monika***(SUKHVINDER KAUR)
JUDGE**

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>