



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

127

CRM-M-44767-2025

Date of decision: 19.08.2025

Jaspal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present : Mr. Manu Loona, Advocate for the petitioner.

AARADHNA SAWHNEY, J.(ORAL)

1. Petitioner, an accused in case FIR No. 254 dated 03.11.2022 registered under Sections 325, 323, 201, 148, 149 IPC at Police Station Sadar Fazilka, District Fazilka, has prayed for setting aside/quashing the order dated 04.06.2025 (Annexure P-5) passed by the learned Judicial Magistrate Ist Class, Fazilka, vide which he (Petitioner) was declared a 'Proclaimed Offender'.

2. Learned counsel submits that after the registration of the FIR, petitioner was granted the concession of bail by the learned trial Court vide order dated 03.10.2023 (Annexure P-2). Challan was filed on the same day and the case was adjourned to 04.11.2023 for framing of charges, when petitioner and other accused were charge-sheeted under Section 323, 325, 148, 149, 201 IPC. Thereafter, case was adjourned to 16.02.2024 for recording prosecution evidence. Learned counsel further submits that unfortunately petitioner was roped in, in another false case bearing FIR No.95 dated 25.05.2024 under Sections 363, 366-A IPC on the allegations that he (Petitioner) had enticed a minor girl. On account of the aforesaid reason, petitioner could not appear before the learned trial Court on 19.07.2024. Learned trial Court, however, hastily proceeded to cancel the



bail and forfeited the bail bonds and surety bonds of the petitioner. His presence was ordered to be secured through non-bailable warrants for 29.08.2024. On 30.10.2024, as stands recorded in the order sheet (copy of which has been appended along with the petition), though, non-bailable warrants were received back unexecuted, but the learned trial Court, without there being any cogent evidence/document on the case file, assumed that petitioner is deliberately avoiding to appear before the Court, as also that he has absconded, thus, initiated proclamation proceedings under Section 82 Cr.P.C., directing the petitioner to appear in the Court on 19.12.2024.

It is further the case of petitioner that the statement of the executing constable could not be recorded on various dates (19.12.2024, 18.01.2025, 11.02.2025, 13.03.2025 and 11.04.2025). The case was adjourned to 08.05.2025, when the statement of executing constable was recorded and the petitioner was declared a Proclaimed Offender on 04.06.2025. Further, order dated 08.05.2025, does not mention as to when the written publication of proclamation was executed against the petitioner, so as to enable him to approach the learned trial Court.

The copies of the interim orders that have been placed on record have been perused. Before proceeding further, it would be appropriate to refer to a judgment of Coordinate Bench of this Court in ***CRM-M-23777-2020*** titled ***Sonu V/s. State of Haryana, decided on 06.10.2020***, wherein the essential requirements of section 82 Cr.P.C. for issuance and publication of proclamation against an absconder and declaring him as proclaimed person/offender were discussed as under:

(i) Prior issuance of warrant of arrest by the Court is sine qua non for issuance and publication of the proclamation and the



Court has to first issue warrant of arrest against the person concerned. (See Rohit Kumar Vs. State of Delhi : 2008 CrI. J. 2561).

(ii) There must be a report before the Court that the person against whom warrant was issued had absconded or had been concealing himself so that the warrant of arrest could not be executed against him. However, the Court is not bound to take evidence in this regard before issuing a Proclamation under Section 82 (1) of the Cr.P.C.. (See Rohit Kumar Vs. State of Delhi : 2008 CrI. J. 2561).

(iii) The Court cannot issue the Proclamation as a matter of course because the Police is asking for it. The Court must be prima facie satisfied that the person has absconded or is concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence. (See Bishundayal Mahton and others Vs. Emperor : AIR 1943 Patna 366 and Devender Singh Negi Vs.State of U.P. : 1994 CrI LJ (Allahabad HC) 1783).

(iv) The requisite date and place for appearance must be specified in the proclamation requiring such person to appear on such date at the specified place. Such date must not be less than 30 clear days from the date of issuance and publication of the proclamation. (See Gurappa Gugal and others Vs. State of Mysore : 1969 Cri LJ 826 and Shokat Ali Vs. State of Haryana : 2020(2) RCR (Criminal) 339).

(v) Where the period between issuance and publication of the proclamation and the specified date of hearing is less than thirty days, the accused cannot be declared a proclaimed person/offender and the proclamation has to be issued and published again. (See Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166 and Ashok Kumar Vs. State of Haryana and another : 2013 (4) RCR (Criminal) 550)



(vi) *The Proclamation has to be published in the manner laid down in Section 82 (2) of the 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. (See Pawan Kumar Gupta Vs. The State of W.B. : 1973 CriLJ 1368). Where the Court so orders a copy of the proclamation has to be additionally published in a daily newspaper circulating in the place in which the accused ordinarily resides. Advisably, proclamation has to be issued with four copies so that one each of the three copies of the proclamation may be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides, to some conspicuous place of such town or village and to some conspicuous part of the Court-house and report regarding publication may be made on the fourth copy of the proclamation. Additional copy will be required where the proclamation is also required to be published in the newspaper.*

(vii) *Statement of the serving officer has to be recorded by the Court as to the date and mode of publication of the proclamation. (See Birad Dan Vs. State : 1958 CriLJ 965).*

(viii) *The Court issuing the proclamation has to make a statement in writing in its order that the proclamation was duly published on a specified day in a manner specified in Section 82(2)(i) of the Cr.P.C.. Such statement in writing by the Court is declared to be conclusive evidence that the requirements of Section 82 have been complied with and that the proclamation*



was published on such day. (See Birad Dan Vs. State : 1958 CriLJ 965).

(xi) The conditions specified in Section 82(2) of the Cr.P.C. for the publication of a 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. (See Devendra Singh Negi alias Debu Vs. State of U.P. and another : 1994 CriLJ 1783 and Pal Singh Vs. The State : 1955 CriLJ 318).

3. It is, thus, clear that the Court which issues proclamation under Section 82 Cr.P.C., must record specific reason/satisfaction that the accused against whom the proceedings are being initiated has absconded or concealed himself to evade the arrest. As noted hereinabove, even though warrants of arrest issued against petitioner were received back unexecuted, learned Magistrate presumed (in the absence of any cogent document) that service has been effected upon petitioner, who is deliberately avoiding to appear in the Court. There is nothing on record that the executing constable had complied with all the prerequisites of Section 82 Cr.P.C., in the sense that he had apart from pasting a copy of the proclamation outside the house of petitioner had also read the declaration publicly in some conspicuous place etc. Most importantly, order dated 08.05.2025 was silent as to when written publication of Petitioner was executed against him, so as to enable him to approach the learned trial Court.

4. Resultantly, in view of the discussion made hereinabove, the impugned order dated 04.06.2025, whereby the petitioner was declared Proclaimed Offender, is set aside.

5. Learned counsel submits that the petitioner undertakes to appear before the learned trial Court on the date fixed i.e. 15.09.2025.



6. Heard.

7. In view of the facts mentioned hereinabove, the present petition is disposed of with a direction to the petitioner to appear before the Court concerned on 15.09.2025. He shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would also submit specific undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

(AARADHNA SAWHNEY)
JUDGE

19.08.2025

Hemant

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No