



CRM-M-4775-2025

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

CRM-M-4775-2025

Date of Decision: 10.09.2025

SUKHJIT SINGH @ BABU

..... PETITIONER

VERSUS

STATE OF PUNJAB

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Aditya Anand, Advocate
for the petitioner.

Mr. K.D. Sachdeva, DAG, Punjab.

SURYA PARTAP SINGH. J (oral).

1. By invoking the inherent jurisdiction vested in this Court by virtue of Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter being referred as "BNSS", the present petition has been filed by the petitioner for quashing of order dated 13.11.2019, passed by learned Additional Sessions Judge-II, Kapurthala, whereby the petitioner was declared a proclaimed person.
2. The sole ground taken in this petition is that the proclamation issued by the learned trial Court was defective as 30 days, from the date of affixation till the date fixed for appearance of petitioner before the Court, were not afforded.
3. The record has been perused.



4. As per record the learned trial Court issued proclamation against the petitioner on 16.09.2019 and the date fixed for appearance was 21.10.2019. However, the statement of executing Constable dated 30.10.2019 shows that it was affixed on 10.10.2019.

5. The above mentioned statement of executing Constable makes it abundantly clear that on the date when the proclamation was affixed only 11 days were left for the petitioner to appear before the trial Court.

6. Although on 21.10.2019, the petitioner was not declared proclaimed person and the learned trial Court adjourned the case to 13.11.2019, with an observation that statutory period of 30 days is yet to be completed, but the above mentioned procedure adopted by the learned trial Court was not in conformity of law.

7. In the present case at the very outset, it is relevant to mention here that Section 82(2) Code of Criminal Procedure lays down that following steps are necessary to be taken before declaring a person to be a proclaimed person:-

(2) The proclamation shall be published as follows:-

(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.



8. With regard to mandatory nature of above mentioned procedure, it has been repeatedly observed by this Court, that the compliance of above mentioned provisions of Section 82(2) of Cr.P.C. is mandatory in nature. It has also been held that in case the above process is not adopted in letter and spirit, the order of declaring a person to be a proclaimed offender/proclaimed person is defective.

9. In this regard in the case of ***Tirlok Chand Vs. State of Haryana 2023(2) Law Herald 1545***, this High Court observed that if a proclamation is issued for appearance of an accused on a fixed date before the Court, and on that date he is not declared proclaimed person, for subsequent date fresh proclamation should be issued. Similarly in the cases of ***Jarnail Singh v. State of Punjab & Anr. in CRM-M-27944 of 2024 and Gagandeep Singh v. State of Punjab in CRM-M-50704-2024***.

10. In addition to above, it is also relevant to mention that the statement of executing Constable no where depicts that the proclamation was read over at a public place in the area where the petitioner ordinarily resides, as prescribed under Section 82 (2) (i) (a), the order declaring the above said person to be a proclaimed person/proclaimed offender is defective and not sustainable in the eyes of law. Similar view has been taken by this High Court in the cases of ***Pal Singh Santa Singh v. State AIR 1955 Punjab 18 and Tajinder Singh v. State of Punjab in CRM-M-21736-2024***. On this account also the above mentioned proclamation seems to be defective .

11. Taking into consideration the cumulative effect that there was a defect in affixation of proclamation i.e. non-reading of summons in public place



and secondly completion of 30 days' period were not afforded to the petitioner to appear before the Court after affixation of proclamation.

12. As such, the order passed by learned trial Court dated 30.11.2019 is defective and not sustainable in the eyes of law. Resultantly, the above mentioned order is hereby set aside. The petition is partly accepted, accordingly.

13. It is however made clear that this order is with regard to legality of proclamation only. Since the petitioner had jumped the bail and his bail has been cancelled and bonds have been forfeited to the State, the order of learned trial Court with regard to cancellation of bail and issuance of warrant of arrest against the petitioner shall stand, and therefore, in case the petitioner surrenders before the learned trial Court, the learned trial Court will be at liberty to take the petitioner into custody for procedure under Section 491 BNSS (Erstwhile Section 446 Cr.P.C). However in case the petitioner surrenders and file an application for bail the same be disposed of expeditiously, preferably within a period of 07 days.

(SURYA PARTAP SINGH)
JUDGE

10.09.2025

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Whether speaking/reasoned : Yes
Whether Reportable : No