

CRM-M-22783-2025

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

CRM-M-22783-2025
Reserved on: 07.08.2025
Pronounced on: 19.08.2025

Kuldeep @ Kuldeep Kumar ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Prashant Singh Chauhan, Advocate
for the petitioner.

Dr. Jasmine Gill, AAG, Haryana.

Mr. Kartik, Advocate
for respondents No.2 to 4.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
202	26.08.2016	Kosli, District Rewari	406 & 420 IPC (Subsequently during investigation Sections 467, 468, 471, 506 & 120B IPC were added)

1. Challenging the order of proclamation dated 23.10.2018 passed by the learned SDJM, Kosli, on being declared as a proclaimed offender, the petitioner has come up before this court under section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS].

2. The reasons for which the petitioner is claiming quashing of proclamation order is that he was not named in the FIR and he was not aware of the proceedings and further neither any summons or warrant was ever served upon him. Further stand of the counsel is that he does not reside usually at his permanent address and his job is to keep moving from one place to another and he is unaware of the proceedings, otherwise he would have surely appear before the concerned court. Thus, he cannot be blamed for ignorance of the pendency of the case. Petitioner's next argument is that two co-accused/Gaurav and Garima, had filed a quashing petition which was also allowed by this Court vide order dated 27.05.2024 passed in CRM-M-22246-2024. The other co-accused Pankaj Gupta was granted bail by this Court vide order dated 12.01.2023 (Annexure P-6) passed in CRM-M-30467-2022.

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3. Counsel for the State opposes the quashing of proclamation order and refer to the reply.

4. I have gone through the reply. Although this Court does not want to comment on the allegations and certainly the allegations are serious and he was stated to have connived with Pankaj Gupta, Rahul Gupta, Sandeep, Namonarayan @ A.K. Narayan and Manish Bhatia. However, this Court is not deciding the anticipatory bail or framing of charges but proceedings of proclamation, as such no adverse inference can be drawn against the petitioner simply because the offence is slightly grave.

5. An analysis of the above would lead to the following outcome.

6. A Coordinate Bench of this Court vide order dated 21.05.2025, had stayed the proclamation order till the next date and the order is continuing.

7. A perusal of the reply is more about the gravity of offence, than on the petitioner's stand for proclamation except denial simplicitor.

8. Petitioner's counsel has drawn attention of this Court to compromise deed (Annexure P-2) which has entered between the victim and the petitioner and as per which, they have settled to their disputes. Even today, counsel for private respondents did not oppose the present petition and submits that matter stands compromised and even not sought time for filing reply.

9. A perusal of the impugned order dated 23.10.2018 points out that the matter was fixed for presence of petitioner and other accused. The learned SDJM waited till 3 PM and declared the accused as proclaimed person. A perusal of the order does not refer to how the provisions of Section 82 were complied with and what was the nature of service upon the petitioner and whether the proclamation order was read over to the public and copy pasted at the prominent place. Thus, on the face of it, order is incomplete and does not comply with the requirements of Section 82/83 CrPC and order of proclamation impugned herein is liable to be set aside.

10. An analysis of the submissions and the petition would lead to the following outcome. It remains undisputed that when the petitioner got to know about his being declared a proclaimed offender, he took a legal remedy and came up before this Court. It also remains undisputed that it never happened that police officials caught his or he tried to run away to avoid appearance in Court. Affixation was made on a place where he was not residing. In such a situation, the petitioner has proved his case by a preponderance of probabilities and has prima facie established that his non-appearance was beyond his control. Although there is a massive delay in challenge to the order of proclamation but the factor goes in petitioner's favour as he came at his own before this Court undertaking to attend the trial, and it is not the police who have been able to arrest.

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11. Another reason to quash the proclamation is the statutory provision of Section 105 CrPC. It shall be relevant to extract Section 105 of CrPC, 1973, which reads as follows:

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) within the local jurisdiction of a Court in any State or area in India outside the said territories,

it may send such summons or warrant in duplicate by post or otherwise, to the presiding officer of that Court to be served or executed; and where any summons referred to in clause (a) or clause (c) has been so served, the provisions of section 68 shall apply in relation to such summons as if the presiding officer of the Court to whom it is sent were a Magistrate in the said territories;

(ii) in any country or 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 send 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 thing, or to produce it, or

(d) a search-warrant, issued by—

(I) a Court in any State or area 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.

12. Thus, there is nothing to demonstrate that the State had either complied with the statutory provisions of Section 105 CrPC or were not required to comply with such provisions.

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13. A perusal of the said statement reveals that the prosecution is complying with the provisions of Section 82 & 105 CrPC. Section 82 CrPC provides that affixation must be made where the petitioner resides. Given above, the proclamation was not affixed in terms of section 82 (2) (i) (a) & (b) of CrPC, which mandate that the proclamation shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides; and 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. None of these conditions were complied with, and the non-adherence to the procedure has rendered the proclamation illegal.

14. I have gone through the pleadings and there is nothing to dispute the stand of the petitioner which is well reasoned and service of proclamation by way of affixation was defective. Given above, the petitioner has made a case on the preponderance of probability that neither any sincere attempt was made to execute the warrants nor did the petitioner have any knowledge about appearance as contemplated under section 82 CrPC. Thus, the order is arbitrary and did not afford reasonable opportunity as mandated under Section 82 of CrPC.

15. In the entirety of facts and circumstances peculiar to this case, the present petition is **allowed**, and proclamation order dated 23.10.2018 is quashed and set aside in the aforesaid terms and subject to the condition that the petitioner shall appear before the concerned trial Court on or before **29.08.2025, if already not appeared** and avail his legal remedy. It is clarified that if the petitioner does not appear on or before the date given, this Court shall presume that petitioner was intentionally avoiding the proceedings before the Court despite knowledge of such cases and all the stand which had taken in the present petition, were incorrect to mislead this Court and consequently the order of setting aside the proclamation proceedings shall stand eclipse. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

19.08.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: NO.