



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

**CRM-14541-2025;
CRM-14542-2025 in/and
CRM-M-165-2025
Date of Decision: 09.04.2025**

MOHAMMAD SALMAN

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Akshit Aggarwal, Advocate
for the applicant-petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

CRM-14542-2025

Allowed as prayed for and orders dated 02.04.2025 passed by Co-ordinate Bench of this Court in CRM-M-16868-2025 and CRM-M-17173-2025 are taken on record as Annexures P-13 and P-14, subject to all just exceptions.

CRM-14541-2025

Allowed as prayed for and main case i.e. CRM-M-165-2025 is preponed and taken on record today itself.

(Main Case) CRM-M-165-2025:-

This petition has been filed under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking quashing of order dated 15.12.2020 passed by learned Sub Divisional Judicial Magistrate, Indri (District Karnal) in case bearing FIR No. 458 dated 12.09.2019 (Annexure P-1) under Sections 149, 148, 302, 323, 506 and 201 read with Section 120-B of IPC and Sections 25, 54 and 59 of Arms Act, registered at Police Station Indri District Karnal.

On the last date of hearing, the case was adjourned to complete instructions with regard to two other cases, in which the petitioner has been



declared as proclaimed person.

Learned counsel for the petitioner relies upon Annexures P-13 and P-14 and submits that Co-ordinate Bench of this Court has already quashed both the orders vide which the petitioner was declared as proclaimed person in other two cases. Learned counsel further submits that the impugned order dated 15.12.2020 (Annexure P-12) vide which the petitioner was declared as proclaimed person in the present case is also liable to be set aside on the ground that the mandate of Section 82 (1) of Cr.P.C. has not been followed in its letter and spirit by the trial Court as the warrants of arrest were never served to the petitioner. It is also submitted that the petitioner undertake to appear before the trial Court on each and every date.

3. Per contra, learned State counsel supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, proclamation was issued to secure his presence.

4. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

5. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.



6. A perusal of the impugned orders reveal that the trial Court issued proclamation without recording reasons of its belief that the petitioner has absconded or is concealing himself. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506*** has held that the Court is first required to record its satisfaction before issuance of process under Section 82 of Cr.P.C. and non- recording of the satisfaction itself makes such order suffering from incurable illegality. In the judgment passed by this Court in ***Sonu Vs. State of Haryana 2021 (1) RCR (Crl.) 319***, it has been held that the conditions specified in Section 82 (2) 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.

7. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

8. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 15.12.2020 (Annexures P-12) vide which the petitioner was declared proclaimed person, is hereby set aside along with all consequential proceedings arising therefrom. The petitioner is directed to appear before the trial Court within four weeks and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court.



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9. It the petitioner fails to surrender before the learned trial Court/Illaqa Magistrate, within the stipulated period, the interim relief granted to the petitioner vide this order shall be deemed to be automatically vacated.

09.04.2025

Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No