

2025:PHHC:074361



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

152

**CRM-M-30600-2025 (O&M)  
Date of decision: 29.05.2025**

**Sandeep Kumar @ Sandi**

**...Petitioner**

**Versus**

**State of Punjab**

**...Respondent**

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Inder Preet Singh Kohli, Advocate  
for the petitioner.

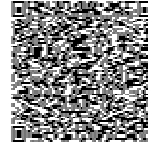
Ms. Himani Arora, AAG, Punjab.

**MANISHA BATRA, J. (Oral)**

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for quashing of order dated 05.05.2025 (Annexure P-8), passed by the learned Sub Divisional Judicial Magistrate, Nabha in case arising out of FIR No. 25 dated 18.04.2017, registered under Sections 25 and 27 of the Arms Act, 1959 at Police Station Kotwali Nabha, District Patiala, whereby the petitioner had been declared a proclaimed person.

2. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in the aforementioned case. The petitioner was on bail and was regularly appearing before the learned trial Court. However, he was

2025:PHHC:074361



falsely implicated in one more case bearing FIR No. 189 dated 13.08.2024, registered under Sections 109, 115(2), 126(2), 324(4), 351(3), 191(3) and 190 of BNS, 2023 and Sections 25 and 27 of the Arms Act at Police Station Balongi, District SAS Nagar, due to which, the petitioner could not appear regularly before the learned trial Court in this case, which resulted into cancellation of his bail and ultimately into his declaration as a proclaimed person. More so, the petitioner had been declared a proclaimed person without following the proper procedure prescribed under law. He is ready to join the Court proceedings. Hence, it is urged that the impugned order is liable to be set aside.

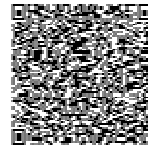
3. Notice of motion.

4. Learned Assistant Advocate General, Punjab has advance notice of the petition and is ready to argue the matter. It is submitted by him that there is no infirmity in the impugned order and the petitioner has rightly been declared a proclaimed person as he was running away from the process of Court. It is, thus, urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. On giving due deliberations to the contentions as raised by learned counsel for the parties and on an overall perusal of the orders passed by the learned trial Court from the date of initiating proclamation proceedings as against the petitioner till the date of declaring him a proclaimed person, I am of the considered opinion that the impugned order dated 05.05.2025

2025:PHHC:074361



suffers from material illegalities and is liable to be quashed with all the consequential proceedings arising therefrom.

7. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, it is revealed that on 18.02.2025, since the non-bailable warrants issued against the petitioner were received back unserved, the learned trial Court had ordered for issuance of proclamation against him for 25.03.2025. A bare perusal of this order shows that the learned trial Court before ordering for publication of proclamation has not recorded its proper satisfaction that that the petitioner had absconded or was concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence, which was in violation of the provisions of Section 84(1) of BNSS (*which is pari materia with Section 82(1) of Cr.P.C.*). Reliance in this regard can be placed upon ***Rohit Kumar Vs. State of Delhi : 2008 CrL J. 2561.***

8. A perusal of order dated 25.03.2025 reveals that the proclamation was received duly effected on 28.02.2025, requiring the petitioner to cause his appearance before the trial Court on 25.03.2025, which means that the petitioner was not granted mandatory period of 30 days to cause his appearance before the learned trial Court. Hence, the same was in clear violation of the provisions of Section 84(1) of BNSS, as per which, a specified time of not less than 30 days is required to be given to the accused from the date of publishing such proclamation which is mandatory in nature. Reliance in this regard can be placed upon ***Gurappa Gugal and others Vs. State of Mysore : 1969 CriLJ 826*** and ***Shokat Ali Vs. State of Haryana : 2020(2) RCR***

2025:PHHC:074361



**(Criminal) 339.** Further, while adjourning the case to 05.05.2025 to complete the mandatory period of 30 days, the learned trial Court failed to consider the fact that it could not have extended the time by simply adjourning the case as a fresh proclamation was required to be published once the period between issuance of publication of proclamation and the specified period of hearing was less than 30 days. Reference in this context can be made to ***Dilbagh Singh Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166.***

9. Accordingly, in view of the discussion as made above and also in view of the ratio of law as laid down in above cited authorities, the present petition is allowed and the impugned order dated 05.05.2025 (Annexure P-8), passed by the learned Sub Divisional Judicial Magistrate, Nabha in case arising out of FIR No. 25 dated 18.04.2017, registered under Sections 25 and 27 of the Arms Act, 1959 at Police Station Kotwali Nabha, District Patiala, whereby the petitioner had been declared a proclaimed person, is quashed with all consequential proceedings arising therefrom.

10. Keeping in view the fact that the petitioner is ready to join the Court proceedings which would obviously help in speedy conclusion of trial, he is directed to surrender before the learned trial Court within a period of 04 weeks from today and on doing so, the learned trial Court shall release him on bail, subject to his furnishing fresh personal/surety bonds to its satisfaction.

11. Till the appearance of the petitioner before the learned trial Court, his arrest shall remain stayed.

2025:PHHC:074361



12. It is made clear that in case the petitioner fails to appear before the learned trial Court within the stipulated time, this petition shall be deemed to be dismissed.

13. However, this relief shall be subject to payment of cost of Rs. 10,000/-, to be deposited by the petitioner with the District Legal Services Authority, Ludhiana.

**29.05.2025**

*Waseem Ansari*

**(MANISHA BATRA)  
JUDGE**

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*