

CRM-M-34437-2025

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

CRM-M-34437-2025  
Reserved on: 04.07.2025  
Pronounced on: 31.07.2025

Arkin ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. B.K. Saini, Advocate  
for the petition.

Ms. Navreet Kaur Barnala, AAG, Punjab.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
135	03.06.2016	City-I, Abohar, District Fazilka	420, 465, 467, 471, 120B IPC

1. Challenging the order of proclamation 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. Petitioner's counsel submits that the petitioner was only an employee of the company in question and authorized as signatory of the company. He further submits that petitioner was not aware about pendency of the above captioned FIR as well as other proceedings arising out of the same as petitioner has not received any summons or warrants from the prosecution agency to appear before the Court.

3. Counsel for the petitioner further submits that she worked in the company till 24.06.2016 and proclamation was affixed on the premises of the company in the year 2018. After marriage, petitioner is residing in District Muktsar and came to know about the FIR and proclamation when police came to her parental house in May 2025. Counsel also referred her marriage certificate, Aadhar Card and copy of proclamation to prove that the same was not affixed on her address and further submits that she is willing to join the proceedings and already filed petition for bail.

CRM-M-34437-2025

4. Notice served upon the official respondent through State counsel. Counsel for the State opposes the petition and prays for time to file reply. Perusal of the record reflects that no reply is needed as it is a matter between Court and the petitioner

5. The explanation offered by the petitioner is that the service was not effected on her residential address and this fact was well in the knowledge of the prosecuting agency. Despite that they fixed proclamation to serve her on the address where she was not residing. The petitioner states that multiple cases were filed and she had even been arrested and remained in jail in some cases. A proclamation was issued and affixed at a address where she did not reside. Hence, the affixation is in violation of Section 82/83 CrPC and order of proclamation impugned herein is liable to be set aside.

6. 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, she took a legal remedy and came up before this Court. It also remains undisputed that it never happened that police officials caught her or she tried to run away to avoid appearance in Court. Affixation was made on a place where she 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 she came at her own before this Court undertaking to attend the trial, and it is not the police who have been able to arrest.

7. 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

CRM-M-34437-2025

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.

8. 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.

9. 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.

10. 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.

11. Consequently, the impugned order of proclamation dated 10.04.2018 passed by SDJM, Abohar (Annexure P-6) is set aside.

CRM-M-34437-2025

**12. Petition allowed to the extent and subject to the conditions that petitioner shall avail her legal remedies within one month, if already not availed. All pending applications, if any, stand disposed.**

(ANOOP CHITKARA)  
JUDGE

31.07.2025  
anju rani

Whether speaking/reasoned: Yes  
Whether reportable: NO.