



**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

175

CRM-M-16031-2026 (O&M)

DECIDED ON: 24.03.2026

HEMPREET SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB & ANR.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Mr. Ravinder Singh Randhawa, Senior Advocate with
Mr. Lachhman Singh and Ms. Harmeet Kaur, Advocates
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J.

The order dated 31.08.2023 (Annexure P-2), hereinafter being referred to as 'impugned order', passed by the learned Judicial Magistrate First Class Ludhiana, hereinafter being referred to as 'trial Court' only, is under challenge in the present petition. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, hereinafter referred to as 'BNSS' only.

2. By virtue of abovementioned order, the learned trial Court while holding a trial for the commission of offence punishable under



Sections 279, 337, 338 and 427 of Indian Penal Code, has declared the petitioner to be a proclaimed person.

3. In nut-shell, the facts emerging from record are that the petitioner was facing a trial for the commission of offence punishable under Section 279, 337, 338 and 427 of Indian Penal Code. However, when on 15.03.2023, the petitioner did not appear before the learned trial Court, the learned trial Court cancelled the bail of the petitioner, forfeited the bonds to the State and issued non-bailable warrants against him. The record shows that on various occasions, the non-bailable warrants, issued against the petitioner, could not be executed, as it was recorded that the petitioner had gone to Canada.

4. Subsequently, vide order dated 12.07.2023, the learned trial Court issued the proclamation against the petitioner for 31.08.2023, and directed the serving Constable to affix the same by 29.07.2023. Thereafter, by virtue of impugned order dated 31.08.2023 the learned trial Court, after recording the statement of the executing Constable, declared the petitioner a proclaimed person.

5. The present petition has been filed by the petitioner by alleging that the impugned order is not sustainable in the eyes of law and deserves to be quashed, as the necessary procedure, prescribed under Section 84 of the BNSS (erstwhile Section 82 of CrPC), was not complied with, while declaring the petitioner a proclaimed person. In this regard, it has been specifically alleged by the petitioner that the proclamation was not publicly read, as prescribed under the law.



6. **Notice of motion.**

7. Mr. I.P.S. Sabharwal, DAG, Punjab appears on behalf of respondent-State. Hence service of notice upon the State is hereby dispensed with.

8. Heard.

9. It has been contended on behalf of petitioner that the learned trial Court has committed an error, when without following due process it declared the petitioner to be a proclaimed person. According to learned counsel for the petitioner, one of the essential steps to be taken during the course of proclamation was the reading of proclamation at a public place, and that in the present case the executing Constable had not read the proclamation at a public place.

10. In addition to above, it has also been contended by learned counsel for the petitioner that because of defective procedure adopted by the learned trial Court, in declaring the petitioner to be a proclaimed person, the impugned order is liable to be set aside.

11. *Per contra*, the learned State Counsel has argued that the petitioner is the person, who, violated the conditions of bail with impunity, and took the law in his own hands and jumped the bail. The learned State Counsel has argued that in view of above the petitioner cannot be permitted to derive any benefit of any technical defect, if any, which might have occurred, inadvertently, in the process of declaring the petitioner to be a proclaimed person.



12. The record has been perused carefully.

13. A perusal of the record shows that the petitioner has placed on record the copy of statement of executing Constable, recorded by the learned trial Court before declaring the petitioner to be proclaimed person. The statement of executing Constable dated 23.07.2023 reads as under:-

“It is requested that one copy of the advertisement is affixed at the given address, second is affixed at the general public place of the village. It was read aloud. Third copy is affixed at Notice Board of the Hon’ble Court. The original copy is presented before the Hon’ble Court.”

14. A bare perusal of the above-mentioned statement of the executing official shows that the above-named executing Constable although read the contents of abovementioned proclamation in loud voice, but there is no statement of the executing Constable that the proclamation was publicly read and that it was so read in some conspicuous place of the town/village. The order dated 31.08.2023 shows that on the basis of abovementioned statement of the executing Constable, and without realizing that the compliance was not proper, the petitioner has been declared a proclaimed person.

15. With regard to the above-mentioned procedure adopted by the Executing Constable, it is relevant to mention here that Section 82(2) of CrPC 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.”*

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

17. In addition to above, it is also relevant to mention here that the statement of the executing Constable nowhere 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) Cr.P.C., and the impugned order declaring the abovesaid person to be a proclaimed person is defective and not sustainable in the eyes of law.

18. This Court in the cases of ‘Jarnail Singh v. State of Punjab & Anr.’ CRM-M-27944 of 2024 and ‘Gagandeep Singh v. State of Punjab’ CRM-M-50704-2024, has observed that if a proclamation is not read at a conspicuous place of the town or village in which such person ordinarily



resides, as prescribed under Section 82(2)(i)(a), the order declaring the abovesaid 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.

19. Taking into consideration the cumulative effect of the abovementioned factors, as there was a defect in affixation of proclamation, i.e. non-reading of proclamation in public place, the order dated 31.08.2023 passed by the learned trial Court is hereby held to be perverse, defective and unsustainable in the eyes of law.

20. As a sequel to abovementioned observations, the present petition is hereby *allowed* and the impugned order dated 29.10.2022 passed by the learned trial Court is hereby quashed.

21. 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 had been cancelled and the bonds were 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 remain intact, and therefore, in case the petitioner surrenders before the learned trial Court within a period of two weeks from today, the learned trial Court will be at liberty to take the petitioner into custody or proceed under Section 491 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (erstwhile Section 446 Cr.P.C), as per law. However, in case the petitioner surrenders and files an application for bail,



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the same be disposed of expeditiously, and in any case not beyond the period of three days.

22. Pending miscellaneous application(s), if any, shall stand disposed of, accordingly.

24.03.2026

Gaurav Thakur

(SURYA PARTAP SINGH)
JUDGE

Whether speaking/reasoned	:Yes/No
Whether reportable	: Yes/No