



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

**CRM-M-15803-2026 (O&M)
DECIDED ON: 24.03.2026**

**BALWINDER SINGH @ BALVINDER SINGH @ KAKA
.....PETITIONER**

VERSUS

**STATE OF PUNJAB AND ANOTHER
.....RESPONDENTS**

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Ms. Vaishali Thakur, Advocate
for the petitioner.

MANDEEP PANNU, J (ORAL)

1. The present petition has been preferred under Section 528 of BNSS, 2023 (corresponding Section 482 Cr.P.C.) for quashing of the order dated 04.07.2023 (Annexure P-13) passed by learned Sub Divisional Magistrate, Balachaur, whereby the petitioner was declared proclaimed and all the consequential proceedings arising therefrom.

2. Learned counsel for the petitioner submits that the petitioner was declared a Proclaimed Person vide order dated 04.07.2023 without affording the mandatory period of 30 days and consequently, the mandatory provisions of Section 82 of the Code of Criminal Procedure (corresponding to Section 84 of the BNSS, 2023) have not been complied with. Therefore, the order dated 04.07.2023 passed by the learned Sub-Divisional Magistrate, Balachaur, is in clear violation of the aforesaid statutory provisions. It has



been further contended by learned counsel for the petitioner that the matter has been compromised between the parties.

3. He further submits that the petitioner undertakes to appear before the trial Court on each and every date of hearing.

4. Notice of motion.

5. On the asking of the Court, Mr. H.S. Wadhwa, DAG, Punjab accepts notice on behalf of the respondent-State, who seeks dismissal of the present petition on the ground that the petitioner was rightly declared as proclaimed person after following due procedure as prescribed under law.

6. Mr. Sumbhav Parmar, Advocate has put in appearance on behalf of respondent No.2 and filed his Memo of Appearance, which is taken on record. He admits the factum of compromise entered into between the petitioner and respondent No.2.

7. I have heard learned counsel for the parties and perused the record.

8. Regarding violation of mandatory provisions of Section 82 Cr.P.C. as alleged, this Court is of the considered view that mandatory provisions of Section 82 Cr.P.C. have not been complied with as a perusal of the record reveals that the proclamation was issued on 05.05.2023 for 09.06.2023 and effected on 30.05.2023 which is less than one month.

9. This Court finds that the aforesaid procedure adopted by the learned trial Court does not satisfy the mandatory requirements of Section 82(1) Cr.P.C. Section 82(1) Cr.P.C clearly requires that the proclamation must specify a date and place for appearance of the accused, and such date must be not less than 30 clear days from the date of publication of the proclamation, which is not so in the present case.



10. It is well settled that where the period between the date of publication of the proclamation and the date fixed for appearance was less than 30 clear days, the proclamation proceedings are vitiated and the accused cannot be declared a proclaimed person. In such circumstances, a fresh proclamation was required to be issued and published in accordance with law.

11. A co-ordinate Bench of this *Court* in **CRM-M-14209-2021 titled "Anita Sharma v. State of Punjab "**, **date of decision 26.03.2021**, has summarized the essential requirements of Section [82](#) Cr.P.C. as under:-

*"(i) Prior issuance of warrant of arrest by the **Court** is sine qua non for issuance and publication of the proclamation and the **Court** has to first issue warrant of arrest against the person concerned. (See **Rohit Kumar v. State of Delhi: 2008 CrL J. 2561**).*

*(ii) There must be a report before the **Court** that the person against whom warrant was issued had absconded or had been concealing himself so that the warrant of arrest could not be executed against him. However, the **Court** is not bound to take evidence in this regard before issuing a Proclamation under Section [82](#)(1) of the Cr.P.C.. (See **Rohit Kumar v. State of Delhi:2008CrL J. 2561**).*

*(iii) The **Court** cannot issue the Proclamation as a matter of course because the Police is asking for it. The **Court** must be prima facie satisfied that the person has absconded or is concealing himself so that the warrant of arrest, previously issued, cannot be executed, despite reasonable diligence. (See **Bishundayal Mahton and others v. Emperor: AIR 1943 Patna 366** and **Devender Singh Negi v. State of U.P.: 1994 CrL LJ (Allahabad HC) 1783**).*



(iv) *The requisite date and place for appearance must be specified in the proclamation requiring such person to appear on such date at the specified place.*

*Such date must not be less than 30 clear days from the date of issuance an publication of the proclamation. (See **GurappaGugal and others v. State of Mysore 1969 CriLJ 826** and **Shokat Ali v. State of Haryana: 2020(2) RCR (Criminal) 339**).*

(v) *Where the period between issuance and publication of the proclamation and the specified date of hearing is less than thirty days, the accused cannot be declared a proclaimed person/offender and the proclamation has to be issued and published again. (See **Dilbagh Singh v. State of Punjab (P&II): 2015 (8) RCR (criminal) 166** and **Ashok Kumar v. State of Haryana and another : 2013 (4) RCR (Criminal) 550**).*

(vi) *The Proclamation has to be published in the manner laid down in Section [82\(2\)](#) of the Cr.P.C. For publication, the proclamation has to be first publicly read in some conspicuous place of the town or village in which the accused ordinarily resides; then the same has to be affixed to some conspicuous part of the house or homestead in which the accused ordinarily resides or to some conspicuous place of such town or village and thereafter a copy of the proclamation has to be affixed to some conspicuous part of the **Court**-house. The three subclauses (a)-(c) in Section 82 (2)(i) of the Cr.P.C. are conjunctive and not disjunctive, which means that there would be no valid publication of the proclamation unless all the three modes of publication are proved. (See **Pawan Kumar Gupta v. The State of W.B.: 1973 CriLJ 1368**). Where the **Court** so orders a copy of the proclamation has to be additionally published in a daily newspaper circulating in the place in which the accused ordinarily resides. Advisably, proclamation has to be issued with four copies so that one each of the three copies of the proclamation may be affixed to some conspicuous part of*



*the house or homestead in which the accused ordinarily resides, to some conspicuous place of such town or village and to some conspicuous part of the **Court**-house and report regarding publication may be made on the fourth copy of the proclamation. Additional copy will be required where the proclamation is also required to be published in the newspaper.*

*(vii) Statement of the serving officer has to be recorded by the **Court** as to the date and mode of publication of the proclamation. (See **Birad Dan v. State: 1958 CriLJ 965**).*

*viii) The **Court** issuing the proclamation has to make a statement in writing in its **order** that the proclamation was duly published on a specified day in a manner specified in Section 82(2)(i) of the Cr.P.C.. Such statement in writing by the **Court** is declared to be conclusive evidence that the requirements of Section 82 have been complied with and that the proclamation was published on such day. (See **Birad Dan v. State: 1958 CriLJ 965**).*

*(xi) The conditions specified in Section [82](#)(2) of the 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. (See **Devendra Singh Negi alias Debu v. State of U.P. and another 1994 CriLJ 1783** and **Pal Singh v. The State: 1955 CriLJ 318**)".*

12. In the present case, the proclamation was admittedly effected upon the petitioner on 30.05.2023. Instead of issuing a fresh proclamation after ensuring compliance with the mandatory requirement of fixing a date beyond 30 clear days from the date of publication, the learned trial Court issued notice to the serving constable for 04.07.2023 for recording of his statement. Such adjournment cannot cure the inherent defect in the proclamation proceedings.



13. Therefore, this Court has no hesitation in holding that the essential requirements of Section 82(1) Cr.P.C have not been complied with in the present case. Consequently, the proclamation order declaring the petitioner as a proclaimed person is legally unsustainable.

14. It is also an admitted fact that a compromise has been entered into between the parties. Therefore, the continuation of the impugned order would amount to an abuse of the process of law.

15. Considering the totality of circumstances, plea of the petitioner is accepted. Impugned order dated 04.07.2023 is set aside to the extent of declaring the petitioner as 'proclaimed person' and he is directed to be released on bail, in the eventuality of surrender by him before the trial Court/Duty Magistrate concerned within a period of 10 days from today.

16. The petitioner shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate. Besides, petitioner will also submit an undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings will not be delayed because of his conduct.

17. It is made clear that in case, petitioner fails to appear before the trial Court/Duty Magistrate within a stipulated period, this order shall be deemed to be vacated.

18. With aforementioned terms, present petition stands disposed of.

19. All pending miscellaneous application(s), if any, stands disposed of.

(MANDEEP PANNU)
JUDGE

24.03.2026

Poonam Negi

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No