



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

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CRM-M-16004-2026 (O&M)

DECIDED ON: 24.03.2026

KULWANT KAUR SANDHU**.....PETITIONER****VERSUS****STATE OF PUNJAB & ANR.****.....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH**

Present: Mr. Anshul Mehta, Advocate for the petitioner.

Ms. Gagandeep Kaur, DAG Punjab.

SURYA PARTAP SINGH, J.

The order dated 29.07.2025 (Annexure P-14), hereinafter being referred to as 'impugned order', passed by the learned Judicial Magistrate First Class Jalandhar, 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 Section 138 of Negotiable Instruments Act, 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 138 of NI Act and in the abovementioned case due to non-appearance, on various occasions, the non-bailable warrants were issued against the petitioner. However, the same could not be executed as the petitioner was not found at home.

4. Subsequently, vide order dated 08.04.2025, the learned trial Court issued a proclamation against the petitioner for 22.05.2025 and the same was ordered to be effected on or before 19.04.2025. On 22.05.2025 proclamation issued against the petitioner was received back duly effected. It was effected on 10.05.2025. On 10.05.2025, it was observed that the statutory period of 30 days had not yet elapsed, and therefore, the case was adjourned to 13.06.2025 for the appearance of petitioner. On 13.06.2025, since the presiding officer was on summer vacations, the case was adjourned to 29.07.2025 for the purpose already fixed, i.e. for appearance of petitioner. Thereafter, by virtue of impugned order dated 29.07.2025, the learned trial Court after recording the statement of 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.

6. **Notice of motion.**

7. Ms. Gagandeep Kaur, 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. It has been further contended by learned counsel for the petitioner that in the present case, proclamation issued against the petitioner is defective in view of the fact that the proclamation for 22.05.2025 was issued by the learned trial Court on 08.04.2025 and on 22.05.2025, the petitioner was not declared a proclaimed person. It has also been pointed out by learned counsel for the petitioner that in this case, no fresh proclamation was issued by the learned trial Court against the petitioner and only on the basis of previous proclamation, which was issued on 08.04.2025, for 22.05.2025, the petitioner has been declared proclaimed person on 29.07.2025. It has also been contended by learned counsel for the petitioner that the petitioner had already left the address, where she was earlier residing and therefore, she could not come to know about the pendency of complaint as well as the summoning order.

10. In addition to above, it has also been alleged by 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 a person, who deliberately failed to appear before the learned Court. The learned State Counsel has contended that in the present case, the petitioner is a person, who right from the very beginning was aware of the pendency of criminal proceedings against her, but she opted not to appear



before the Court and remained absent for a long time. As per learned State Counsel, in view of above the petitioner cannot derive any benefit from 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 the proclaimed person. The statement of executing Constable, namely HC Karan dated 10.05.2025, reads as under:-

“It is submitted that, in order to implement the order (advertisement) issued by your Hon’ble court, the department has carried out a public announcement outside the house of the accused. Copies of the advertisement have been pasted at places in the village. One copy of the advertisement has also been displayed on the notice board of the Court.

The original copy of the advertisement is being sent for further proceedings.”

14. A perusal of record further shows that the learned trial Court declared the petitioner to be a proclaimed person on the basis of affixation of proclamation issued for appearance on 22.05.2025, whereas as per laid down procedure, if the statement of executing Constable was recorded on 10.05.2025 and on 22.05.2025 the petitioner was not declared a proclaimed offender, and the case was adjourned to next date, i.e. 13.06.2025 and on 13.06.2025, the petitioner was not declared a proclaimed offender and again case was adjourned for next date, i.e. for 29.07.2025, a fresh proclamation should have been issued against the petitioner. A perusal of record further



reveals that without following the abovesaid procedure, the learned trial Court declared the petitioner 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 if 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 this regard in the case of ‘Tirlok Chand Vs. State of Haryana’ 2023(2) Law Herald 1545, this Court has observed that if a proclamation is issued for appearance of an accused on a fixed date before the Court, and on that date he is not declared proclaimed person, for subsequent date fresh



proclamation should be issued. Similar view has been taken in the cases of ‘Jarnail Singh v. State of Punjab & Another’ (CRM-M-27944 of 2024, decided on 04.09.2024) and ‘Gagandeep Singh v. State of Punjab’ (CRM-M-50704- 2024, decided on 28.11.2024).

18. Taking into consideration the cumulative effect of the abovementioned factors, as there was a defect in the impugned order while declaring the petitioner a proclaimed person, the order dated 29.07.2025 passed by the learned trial Court is hereby held to be perverse, defective and unsustainable in the eyes of law.

19. As a sequel to abovementioned observations, the present petition is hereby ***allowed*** and the impugned order dated 29.07.2025 passed by the learned trial Court is hereby quashed.

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

24.03.2026

Gaurav Thakur

**(SURYA PARTAP SINGH)
JUDGE**

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