



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

**CRM-M-38479-2026
DECIDED ON: 16.07.2026**

HARDEEP SINGH AND OTHERS

.....PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Jatinder Singh Gill, Advocate
for the petitioners.

MANDEEP PANNU, J (ORAL)

1. This petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 of the Code of Criminal Procedure, 1973), seeking quashing of the order dated 23.04.2026 (Annexure P-7), whereby the petitioners have been declared as proclaimed persons by the learned Sub-Divisional Judicial Magistrate, Batala, in FIR No. 79 dated 15.05.2025 (Annexure P-1), registered under Sections 498-A and 406 of the Indian Penal Code, 1860 (corresponding to Sections 85 and 316 of the Bharatiya Nyaya Sanhita, 2023), at Police Station City Batala, Police District Batala, District Gurdaspur.

2. Learned counsel for the petitioners submits that the petitioners were not aware of the proclamation proceedings as no notice was ever served upon them and their absence was neither intentional nor deliberate. It is contended that the non-bailable warrants were never executed and,



therefore, the petitioners could not have been declared as proclaimed persons under Section 82 Cr.P.C. Learned counsel further submits that the mandatory procedure for service of proclamation was not followed. It is also submitted that the dispute between the parties has been amicably settled during the proceedings in CRM-M-34873-2025 and the petitioners have paid Rs.13 lakh to the complainant. Hence, the impugned order deserves to be quashed.

3. He further submits that the petitioners are willing to surrender before the learned trial Court, participate in the trial proceedings and undertake to appear before the learned trial Court on each and every date of hearing.

4. Notice of motion.

5. On the asking of the Court, Mr. Sahil Chowdhary, AAG, Punjab accepts notice on behalf of the respondent-State and submits that the petitioners were rightly declared a proclaimed persons owing to their continued non-appearance before the learned trial Court despite due process having been followed. It is contended that the impugned order has been passed strictly in accordance with law and does not suffer from any illegality or infirmity. Accordingly, prayer has been made for dismissal of the present petition.

6. I have heard learned counsel for the parties and gone through the case file.

7. A perusal of the order dated 23.04.2026 (Annexure P-7) reveals that the statement of serving official was not recorded. Order dated 23.04.2026 is reproduced hereinbelow:-



“Proclamation of accused Nirmaljit Singh, Hardeep Singh and Kamalpreet Kaur received back duly effected on 11.03.2026, which was effected by ASI Sucha Singh No.2534/BTL being public servant while discharging official duties. As such, there is no requirement to record his statement separately about effecting of proclamation. Since none turned on behalf of accused Nirmaljit Singh, Hardeep Singh and Kamalpreet Kaur today, despite awaiting whole of the day and it being already 04:30 PM, said accused Nirmaljit Singh, Hardeep Singh and Kamalpreet Kaur are declared proclaimed persons. Intimation in this regard be also send to the concerned police station.

Further, as per report of SHOP.S. City, Batala and as per report of Tehsildar, Ratia State of Haryana, accused Hardeep Singh owns 2 Kanal 2 Marla of land at Village Laghuwas, whereas accused Nirmaljit Singh and Kamaljit Kaur were not owner of any land/immovable property. So, in these circumstances, proceedings against accused Nirmaljit Singh and Kamaljit Kaur are complete under Section 83 Cr.P.C, whereas opportunity is given to the Investigating Agency to do the needful and getting clue of any immovable property of accused Nirmajit Singh and Kamaljit Kaur. Attachment of warrant of property of accused Hardeep Singh be issued under Section 84 Cr.P.C. File be consigned to the record room, Batala and same be taken up as and when accused Nirmaljit Singh, Hardeep Singh and Kamalpreet Kaur arrested or surrender themselves in the Court.”

8. Regarding violation of mandatory provisions of Section 82 Cr.P.C. as alleged, this Court is of the considered view that the statement of serving officer has to be recorded by the Court as to the date and mode of publication of the proclamation as in the manner laid down in Section 82(2).



9. 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**)".

10. Keeping in view the submissions made by learned counsel for the parties coupled with the fact that the petitioners have expressed their willingness to appear before the learned trial Court and participate in the proceedings, this Court is of the considered opinion that no useful purpose would be served by allowing the impugned order to continue to operate, particularly when the presence of the petitioners can adequately be secured by imposing appropriate conditions.

11. Further, the object of declaring an accused a proclaimed person is primarily to secure his presence before the Court and not to punish him. Since the petitioner has undertaken to appear before the learned trial Court on each and every date of hearing and not to seek unnecessary adjournments or exemption from appearance, this Court deems it appropriate to afford him one opportunity to join the proceedings.



12. Considering the totality of circumstances, particularly the fact that the entire matter has been settled between the parties during the proceedings in CRM-M-34873-2025, this Court is of the view that the petitioners can be directed to appear before the trial Court, so that trial may resume. Accordingly, plea of the petitioners is accepted. Impugned order dated 23.04.2026 is set aside to the extent of declaring the petitioners as 'proclaimed persons'. The petitioners are directed to appear before the learned trial Court/Duty Magistrate concerned within a period of 10 days from today and, upon their appearance, they shall be released on bail subject to furnishing adequate bail/surety bonds to the satisfaction of the concerned Court, subject to payment of costs of Rs.10,000/- to be deposited with Poor Patients' Welfare Fund, PGIMER, Chandigarh.

13. The petitioners shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate. Besides, petitioners will also submit undertakings/affidavits that they will keep appearing during the proceedings of the trial in future and the proceedings will not be delayed because of their conduct.

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

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

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

(MANDEEP PANNU)
JUDGE

16.07.2026

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No