



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

126

CRM-M-45489-2025 (O&M)  
Date of decision: 25.08.2025

Pritam Kaur

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY**

Present : Mr. S.S. Sidhu, Advocate for the petitioner.

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**AARADHNA SAWHNEY, J.(ORAL)**

**CRM-33479-2025**

For the reasons mentioned in the application, the same is allowed. Copy of zimni orders dated 27.04.2021 to 01.08.2025 (Annexure P-9 (colly)) passed by learned trial Court in case bearing FIR No. 131 dated 18.11.2020 registered under Sections 447, 511 and 34 IPC at Police Station City Nakodar and medical records (Annexure P-10 (colly)) are taken on record subject to all just exceptions.

**Main Case**

1. Petitioner, an accused in case FIR No. 131 dated 18.11.2020 registered under Sections 447, 511 and 34 IPC at Police Station City Nakodar, has prayed for setting aside/quashing the order dated 07.10.2022 (Annexure P-5) passed by the learned Sub Divisional Magistrate, Nakodar, vide which he (Petitioner) was declared a 'Proclaimed Offender'.
2. As per Petitioner, after she was arrested in the aforesaid FIR, she was released on bail (offences being bailable in nature). Thereafter, she went back to United Kingdom. Being an illiterate lady and unaware of Court proceedings, she relied totally upon her family members as also upon the counsel whom she had engaged to keep her informed of Court proceedings.

On 06.04.2022, she did not appear before the Court.



Resultantly, to procure her presence, bailable warrants in the sum of Rs.5,000/- were issued, with one surety in the like amount. On the said day, i.e. 10.05.2022, bailable warrants were received back unserved, but despite that, the learned trial Court, proceeded to cancel the bail and forfeited the bail bonds and surety bonds of the petitioner. Her presence was ordered to be secured through non-bailable warrants for 04.06.2022. On the next day, i.e. on 04.06.2022, non-bailable warrants were received back unserved. Learned trial Court issued fresh non-bailable warrants for 13.07.2022. Even on the said day, non-bailable warrants were received back unserved. The case was adjourned to 17.08.2022 for presence of petitioner, when following order was passed:-

*“An application for exemption from personal appearance of accused is filed through his counsel. Heard. In view of the grounds stated therein, the same is allowed for today only. NBW issued against accused Pritam Kaur received back with the report unexecuted. Perusal of the report on the warrants, it appears that he is avoiding service. Now she be summoned through proclamation u/s 82/83 of Cr.PC for 17.09.2022.”*

Learned counsel submits that, though, non-bailable warrants were received back unexecuted, but the learned trial Court, without there being any cogent evidence/document on the case file, assumed that petitioner is deliberately avoiding to appear before the Court, thus, initiated proclamation proceedings under Section 82 Cr.P.C., directing the petitioner to appear in the Court on 17.09.2022.

Learned counsel has placed on record the copy of the statement of the executing constable recorded in the said case, a bare perusal of which makes it clear that the executing constable visited at the address of Petitioner



(which has not been specified) on 05.09.2022. As already noted above, on 17.08.2022 the case had been adjourned to 17.09.2022 for presence of the petitioner. Meaning thereby that the 30 days period from the date of issuance of publication of the proclamation (05.09.2022) and appearance of the petitioner (17.09.2022), had not elapsed.

Further, perusal of the report of executing constable, when read carefully goes to show that one copy of the proclamation was pasted by him on the notice board of the Court, the second in the concerned police station and the third copy of the said notice was pasted at the gate of the residence of the petitioner and one copy at the bus stand/stop of concerned area.

It is, thus, clear that one of the essential requirements of sub Section(2)(i)(a) of Section 82 Cr.P.C. was not complied with, inasmuch as the declaration was not read publicly by executing constable, in some conspicuous place where the accused ordinarily resides.

The copies of the interim orders that have been placed on record have been perused.

3. Before proceeding further, it would be appropriate to refer to a judgment of Coordinate Bench of this Court in **CRM-M-23777-2020** titled **Sonu V/s. State of Haryana, decided on 06.10.2020**, wherein the essential requirements of section 82 Cr.P.C. for issuance and publication of proclamation against an absconder and declaring him as proclaimed person/offender were discussed 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 Vs. State of Delhi : 2008 CrI. 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 Vs. State of Delhi : 2008 CrI. 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 Vs. Emperor : AIR 1943 Patna 366 and Devender Singh Negi Vs.State of U.P. : 1994 CrI 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 and publication of the proclamation. (See Gurappa Gugal and others Vs. State of Mysore : 1969 Cri LJ 826 and Shokat Ali Vs. 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 Vs. State of Punjab (P&H) : 2015 (8) R.C.R. (criminal) 166 and Ashok Kumar Vs. 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 sub-clauses (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 Vs. 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 Vs. 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 Vs. 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 Vs. State of U.P. and another : 1994 CriLJ 1783 and Pal Singh Vs. The State : 1955 CriLJ 318).*

4. It is, thus, clear that the Court which issues proclamation under Section 82 Cr.P.C., must record specific reason/satisfaction that the accused against whom the proceedings are being initiated has absconded or concealed himself to evade the arrest. As noted hereinabove, even though warrants of arrest issued against petitioner were received back unexecuted, learned Magistrate presumed (in the absence of any cogent document) that service has been effected upon petitioner, who is deliberately avoiding to appear in the Court. Moreover, there is nothing on record that the executing constable had complied with all the prerequisites of Section 82 Cr.P.C., in the sense that he had apart from pasting a copy of the proclamation at the gate of the residence of petitioner had also read the declaration publicly in some conspicuous place etc.

5. Resultantly, in view of the discussion made hereinabove, the impugned order dated 07.10.2022, whereby the petitioner was declared Proclaimed Offender, is set aside.

6. Learned counsel submits that the petitioner undertakes to appear before the learned trial Court on the date fixed i.e. 27.08.2025.

7. Heard.

8. In view of the facts mentioned hereinabove, the present petition is disposed of with a direction to the petitioner to appear before the Court concerned on 27.08.2025. She shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would also



submit specific undertaking/affidavit that she will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of her conduct.

**(AARADHNA SAWHNEY)**  
**JUDGE**

**25.08.2025**

Hemant

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