



2025:PHHC:098532



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

102**CRM M-59513-2023****Date of Decision:18.07.2025**

Sumanpreet Singh @ Honey

...Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

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

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

N.S.SHEKHAWAT, J.

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the order dated 24.11.2022 (Annexure P-8) passed by the Special Court, Mansa, whereby, the petitioner was declared as proclaimed offender and the Station House Office, Police Station Kot Dharmu, now Police Station Sadar Mansa, had been directed to proceed against the petitioner under Section 174-A IPC.

2. Learned counsel for the petitioner contends that one FIR No. 72 dated 10.09.2015 under Sections 22/25/61/65 of the Narcotic Drugs and Psychotropic Substances Act, 1985 was ordered to be

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SHEKHAWAT***

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registered against the present petitioner. The petitioner was arrested in the present case and vide order dated 05.01.2016 (Annexure P-2), this Court granted the concession of regular bail to the petitioner. Even though, a cancellation report was prepared by the SIT in the present case, still, a report under Section 173 Cr.P.C. was ultimately presented by the police against the petitioner before the trial Court. After the grant of concession of bail, the petitioner was regularly appearing before the trial Court. However, on 08.08.2022, the petitioner could not appear before the trial Court as his sister, who was residing in Australia, had met with an accident and she had to undergo an emergent surgery. She was alone in Australia and the petitioner had to fly to the Australia immediately to help her. Learned counsel also replied upon the medical record (Annexure P-3) issued by the Eastern Melbourne Orthopedics and Sports Hospital, in this regard. Since, the petitioner failed to appear on 08.08.2022, his bail was cancelled by the trial Court and the bail bonds/surety bonds were also cancelled and forfeited to the State. Further, non-bailable warrants were issued against the petitioner and notice was also issued. On 07.09.2022, the trial Court issued the proclamation under Section 82 Cr.P.C., returnable by 29.10.2022. However, the serving constable was directed to execute the proclamation well before 30.09.2022 and he was directed to appear before the trial Court on 30.09.2022 also to furnish his report regarding the execution of the proclamation

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warrants. On 30.09.2022, the serving constable Gurpreet Singh appeared and stated that he had executed the proclamation warrants of the petitioner.

3. Learned counsel for the petitioner has referred to the order dated 29.10.2022 (Annexure P-7) to contend that the proclamation against the petitioner was issued for his appearance on 29.10.2022, however, he was not declared as a proclaimed offender on the said day and the case was adjourned to 24.11.2022 for the appearance of the petitioner. However, technically no proclamation was issued for appearance of the petitioner for 24.11.2022. Thus, the petitioner could not have been declared as proclaimed offender on 24.11.2022. On 24.11.2022, the petitioner was declared as a proclaimed offender and intimation was also sent to SHO, Police Station Kot Dharmu to proceed against the petitioner under Section 174-A IPC.

5. On the other hand, learned State counsel has not been able to controvert the above said factual submissions, however, he submits that in the present case, the petitioner had intentionally not appeared before the trial Court and the petition deserves to be dismissed by this Court.

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



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7. It has been held by this Court in the matter of **Ashok Kumar Vs. State of Haryana and Anr.2013(4) RCR (Criminal) 550** as under:

“3.As per order dated 04.01.2013 passed by the learned Additional Chief Judicial Magistrate, Panipat the case has been adjourned for 06.03.2013 for issuing of proclamation under Sections 82 and 83 Cr.P.C.against petitioner Ashok Kumar. The order dated 06.03.2013, shows that proclamation issued against Ashok Kumar received back duly executed. Statement of Serving Constable was also recorded. Period of 30 days had not elapsed from the date of publication. Therefore, the case was adjourned to 13.3.2013. On that day, the petitioner was declared as proclaimed offender. The original record also shows that the statement of the serving official, namely, ASI Dilbag Singh was recorded on 6.3.2013, who stated that on 9.2.2013, he visited the place of residence of the accused along with proclamation. After reading publicly, the proclamation was affixed at conspicuous part of the house of the accused where he ordinarily resides. A copy of the proclamation was also affixed at conspicuous part of the Court house, which means that the publication was effected on 9.2.2013 for 6.3.2013, which shows that after the publication of the notice, the accused was not given the mandatory period of 30 days to appear before the Court. The mere fact that the Court adjourned it after the period of 30 days will not be treated as compliance of the provisions of Section 82 (1) Cr.P.C. where it is provided that :-

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“82. Proclamation for person absconding. --

(1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(1) xx xx xx xx xx xx xx

(2) xx xx xx xx xx xx xx

4. “In view of the above provisions of Section 82(1) Cr.P.C., it is clear that the publication was effected on 9.2.2013 and the accused was directed to appear in the Court as per that publication on 6.3.2013 which period was less than 30 days. Therefore, it cannot be held that by passing the impugned order on 13.3.2013, the publication has been effected as per the provisions of Section 82 Cr.P.C. There was no order in the publication for the accused giving specified time and place to appear on 13.3.2013. Therefore, this order is not as per law and the same is set aside”.

8. Still further, it has been held by this Court in the matter of ***Avtar Singh Vs. State of Punjab and Anr. (CRM-M-1866 2017)*** which is as under:

“The above quoted provision is clear that through the proclamation made prior to declaration of a person as a proclaimed offender, he should be given not less than thirty days from the date of its proclamation to appear at a specified place and a specified time. In the case in



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hand, thirty days were not given to the petitioner to appear before the Trial Court as the proclamation was made on 13.05.2011 requiring him to appear before the Trial Court on 14.05.2011. Thus, the proclamation and the subsequent order dated 03.09.2011 (Annexure P-2) declaring the petitioner to be a proclaimed offender do not confirm with the mandate of Section 82 (1) of the Code.

9. In the present case also, this Court has no hesitation to hold that the proclamation was issued on 07.09.2022 and the petitioner was required to appear before the trial Court on 29.10.2022. On 29.10.2022, the case was adjourned to 24.11.2022 for appearance of the present petitioner. However, there was no order in the publication for the accused requiring him to appear before the Court on 24.11.2022. Rather, no proclamation was issued for requiring the petitioner to appear before the trial Court on 24.11.2022 and the impugned order is unsustainable.

10. In view of the above, the impugned order dated 24.11.2022 (Annexure P-8) passed by the Special Court, Mansa, whereby, the petitioner was declared as proclaimed offender and all consequential proceedings arising therefrom are ordered to be quashed qua the petitioner only.

18.07.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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