CNR No: PHHC011178462026
2026:PHHC:200567

150 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40733-2026
Date of Decision:12.11.2026

Rani and another ...Petitioners

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Bhisham Kinger, Advocate
for the petitioners.

Mr. Kamalpreet Bawa, DAG, Punjab.

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AARADHNA SAWHNEY, J. (ORAL)

1. Petitioners have assailed the order dated 23.04.2026 (Annexure P-10) passed by the learned Chief Judicial Magistrate, Sri Muktsar Sahib, vide which they were declared as '*Proclaimed Persons*' in a case bearing FIR No.172 dated 28.05.2020, registered against them at the instance of respondent No.2/complainant for the commission of offences punishable u/s 498-A, 34 IPC at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. Learned counsel for the petitioners submits that petitioners, who are the mother-in-law and father-in-law, respectively of the complainant/respondent No.2, have been falsely implicated in the present FIR. They were granted the concession of bail by the learned trial Magistrate, vide order dated 29.06.2020. Since then, they had been regularly appearing before the concerned Court, but on the date fixed due to unavoidable reasons, they could not put in appearance and accordingly their bail was cancelled and non-bailable warrants were

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issued on 11.06.2025. The aforesaid order was assailed by the petitioners by way of filing petition bearing CRM-M No.47521 of 2025. Taking note of all the facts and circumstances of the case, the said order dated 11.06.2025, was set aside by the co-ordinate Bench of this Court, vide order dated 29.08.2025 (appended as Annexure P-4) and petitioners were directed to appear before the trial Court within a period of 10 days.

It is further the submission of learned counsel that petitioners could not comply with the aforesaid directions as the medical condition of petitioner No.1 suddenly deteriorated. She suffered a serious cardiac issue and remained hospitalized for quite some time. Petitioner No. 2, husband of petitioner No.1, was busy taking care of her. Nonetheless, on account of their continued absence, the learned trial Magistrate proceeded further, initiated proclamation proceedings and in terms of impugned order dated 23.04.2026, declared both the petitioners as the '*Proclaimed Persons*'.

The son of petitioners, who is also an accused in the present case, has been continuously appearing before the Court.

The aforesaid order has been assailed by the petitioners in the present petition.

Learned counsel while referring to the copies of the statement of the Executing Constable recorded before the learned trial Court on 23.04.2026 submits that compliance of Section 82 Cr.P.C. (now Section 84 BNSS) was not made in letter and spirit, inasmuch as, the Executing Constable did not read out the proclamation at the residential address of the petitioners. In this context, attention has been drawn to Section 82 (2) Cr.P.C. Proclamation proceedings initiated by the Ld. CJM, Sri Muktsar Sahib, thus as per learned counsel are not '*in sync*' with Section 82 Cr.P.C.

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Learned counsel further submits that son of petitioners, who is also an accused in the present FIR, had been disowned by them and is presently facing trial.

It is with this backdrop that the learned counsel prays for setting aside the impugned order dated 23.04.2026 and prays to take lenient view in favour of petitioners, who undertake to surrender before the Court concerned immediately within a period of 15 days from today and to attend the Court proceedings regularly on each and every date of hearing.

3. Learned State counsel opposes the prayer of the petitioners by submitting that petitioners do not deserve any sympathy and that if lenient view is taken, there is every possibility that they might abscond, thus further delaying the trial.

4. Heard. Documents on record perused.

5. At the outset, it needs to be ascertained as to whether the procedural requirements of Section 82 Cr.P.C. (now Section 84 BNSS) were complied with by learned Magistrate before declaring petitioner *'Proclaimed Person'*.

In this context, 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. (now Section 84 BNSS) 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 Crl. J. 2561).*

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(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 Crl. 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 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 and publication of the proclamation. (See Gurappa Gugal and others Vs. State of Mysore : 1969 Cri LJ 826 and Shokat Ali Vs. State of Haryna : 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.. <u>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</u>

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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

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Singh Vs. The State : 1955 CriLJ 318).

6. Reverting back to the facts of the case in hand, there is nothing in the report of the executing constable from where it can be inferred that he had read the proclamation order at some conspicuous place of town/village/locality where petitioners-accused were residing, which he was required to do. In view of the said flaw, it is evident that there has been no compliance of sub clause (i) of Sub Section 2 of Section 82 Cr.P.C.

7. In view of the above discussion and in the light of judgments referred hereinabove, the impugned order dated 23.04.2026 (Annexure P-10), is set aside. Petition is disposed of with a direction to the petitioners to appear before the Court concerned within a period of 15 days from today. On their appearance before the Court concerned, they shall be readmitted to bail on their furnishing fresh bail bonds/surety bonds to the satisfaction of learned trial Judge. Petitioners are also directed to furnish undertaking by way of affidavits that they will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. They shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

8. Before parting with this order, it is made abundantly clear that in case the petitioners do not adhere to the aforesaid conditions, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AARADHNA SAWHNEY)
JUDGE

12.11.2026
Parveen kumar

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

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