



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

201

CRM-M-58483-2025 (O&M)
Date of decision: 16.01.2026

Vikas Bibra

....Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. R.S. Cheema, Sr. Advocate with
Mr. D.S. Sobti, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition for quashing the impugned orders dated 30.06.2017, 20.07.2017, 21.08.2017 and 07.11.2017, whereby arrest warrants, non-bailable warrants and proclamation warrants were issued respectively and one dated 07.11.2017, vide which the petitioner was declared as proclaimed person in FIR No. 135 dated 22.11.2016 registered under Sections 406 and 420 IPC, at Police Station Mataur, District SAS Nagar, Mohali, Punjab.

2. Learned Senior counsel submits that firstly, the learned trial Court had not come to the conclusion as is required under Section 82(1) Cr.P.C. that the petitioner as a matter of fact was absconding or concealing himself, so that such warrants could not be executed. Secondly, the petitioner was summoned in the above FIR, however, no notice of arrest under Section 41A CrPC, was issued and the warrants of arrest issued against him were received back unexecuted.



Thereafter, proclamation proceedings against him were initiated but there being not a 30 days from the date of publication, the order dated 07.11.2017 is thus, liable to be set aside. Reliance is placed upon judgments in the cases of CRM-M-29878-2022, **Sardar Singh and another vs. State of Punjab and another**, decided on 30.08.2022, **Uttam Sharma vs. State of Punjab and another**, CRM-M-31481-2021, dated 29.09.2021 and **Ashok Kumar vs. State of Haryana and another**, CRM-M-13638-2013, decided on 05.08.2013.

3. Learned State counsel opposes the petition by submitting that the petitioner has rightly been declared proclaimed person and the order impugned is justified.

4. Heard.

5. It is apposite to refer to the provisions of Section 82 (1) Cr.P.C. which reads thus:-

“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.

(2) xx xx xx xx
(3) xx xx xx xx.”

6. The proclamation in the present case was issued on 21.08.2017, to cause appearance on 28.09.2017, which though shows there to be a clear more than 30 days notice, however, the date of publication as per the statement of serving constable Jasbir Singh being 14.09.2017, Annexure P-6, it was cut short by a period of 14 days, which is in teeth of the judgment in **Ashok Kumar** (*supra*), relevant para of which reads thus:



"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."

7. The aforesaid judgment was relied upon in **Uttam Sharma** (supra), wherein also the order of proclamation was set aside, as a clear 30 days time from the date of publication was not afforded before issuing absconding warrant against the accused as per the statutory provisions of Section 82 Cr.P.C.

8. In view of the afore, this Court finds that the requisite procedure as mandated by Section 82 Cr.P.C. was not completely followed in letter and spirit, thus, the continuation of proceedings would be an abuse of the process and deserve to be quashed, as held in **Ramesh Chandra vs. State of U.P.**, 2022 SCC OnLine SC 1634. Accordingly, the impugned order dated 07.11.2017, Annexure P-6, is set aside. The petitioner is at liberty to apply for anticipatory/regular bail in the main case before the trial Court, which shall be decided in accordance with law.

9. The petition is disposed of.

**(AMAN CHAUDHARY)
JUDGE**

16.01.2026

M.Kamra

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