



2026:PHHC:004821

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRM-M-73283-2025**

Charanjeet Singh alias Dabbal

....Petitioner

versus

State of Haryana

....Respondent

Reserved on: January 14, 2026

Date of pronouncement: January 16, 2026

Date of Uploading: January 16, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Ashit Malik, Senior Advocate with
Mr. Abhinav Kansal, Advocate for the petitioner.

Ms. Mahima Yashpal Singla, Senior DAG Haryana.

***********SUMEET GOEL, J. (ORAL)**

1. Present petition has been filed under Section 528 of the BNSS, 2023, seeking quashing of the impugned order dated 24.02.2023 (Annexure P-10) passed by the learned Sub Divisional Judicial Magistrate, Pehowa, whereby, the petitioner was declared as proclaimed person, in a case arising out of FIR No.573 dated 31.10.2019, under Sections 10, 24 of the Immigration Act, 2000 and Sections 406 & 420 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Pehowa, District Kurukshetra, as well as all the subsequent proceedings arising therefrom.

2. Learned Senior Counsel for the petitioner has contended that the impugned order, whereby the petitioner has been declared a proclaimed person, is wholly illegal, arbitrary, and unsustainable in the eyes of law. It has been

CRM-M-73283-2025

further contended that the petitioner has been falsely implicated in the FIR in question. Learned Senior Counsel has submitted that the petitioner was earlier granted the concession of anticipatory bail by the learned Additional Sessions Judge, Kurukshetra, vide order dated 04.08.2020 (Annexure P-2). Learned Senior Counsel has further submitted that the petitioner, along with the co-accused, could not appear before the Court below on 01.09.2021 (Annexure P-3), pursuant to which bailable warrants were issued against them. It has been pointed out that vide order dated 22.08.2022 passed by the Court below, it was recorded that the petitioner was stated to be residing in Spain, and accordingly, the SHO concerned was directed to ascertain and furnish the correct address of the petitioner. Learned Senior Counsel has further argued that on 05.12.2022, a report was submitted by the Head Constable stating that the petitioner had gone to Germany approximately 11 to 12 months earlier and, on the basis of such report, vide orders dated 05.12.2022 and 09.01.2023, proclamation proceedings were initiated against the petitioner for his appearance on 25.01.2023. It has been contended that on the said date, i.e. 25.01.2023, the executing official (EHC Kaila Ram) reported that the petitioner was not found present at his address and that his uncle informed the police that the petitioner had been residing in Spain for the past 9–10 months. Consequently, copies of the proclamation were stated to have been affixed at the residence of the petitioner, a road crossing (*burji*), on the notice board of the Court, and one copy was submitted along with the execution report. Learned Senior Counsel has further contended that vide impugned order dated 24.02.2023 (Annexure P-10), the petitioner was declared a proclaimed person in gross violation of the mandatory provisions of Sections 82 of the Code of Criminal Procedure. It has been

argued that the statutory requirements were not complied with, inasmuch as the proclamation was neither publicly read out at a conspicuous place nor served in a manner prescribed by law. It is further contended that since the petitioner was admittedly residing abroad, there was no material to conclude wilful evasion of process, and the declaration of the petitioner as a proclaimed person is therefore legally untenable.

3. Learned State counsel has filed a reply by way of an affidavit dated 05.01.2026, which is already on record. Raising submissions in tandem with the said reply, learned State counsel has opposed the present petition. While refuting the case set up by the petitioner, detailed arguments were advanced on merits, contending that the petitioner willfully did not appear before the Court below despite having due knowledge of the proceedings. Learned State counsel has further argued that the trial Court has rightly initiated proclamation proceedings against the petitioner, however, the petitioner deliberately avoided his appearance before it. Consequently, the petitioner has been rightly declared as a proclaimed person vide the impugned order. It has further been pointed out that the learned Court below scrupulously adhered to the procedure prescribed under Section 82 of the Code of Criminal Procedure, 1973, and no infirmity or procedural irregularity is discernible from the record. Learned State counsel has, therefore, contended that the conduct of the petitioner clearly establishes his deliberate defiance of the judicial process and misuse of the concession of bail. Accordingly, dismissal of the instant petition has been prayed for.

4. I have heard the learned counsel for the rival parties and carefully perused the record of the case.

5. The law is well settled that no person can be declared a proclaimed offender/person unless the procedure prescribed under Section 82 of the Code of Criminal Procedure, 1973 is strictly and meticulously adhered to. It is trite that the provisions of Section 82 Cr.P.C. are mandatory in nature, and any non-compliance thereof vitiates the entire proceedings. In the present case, the petitioner was earlier granted the concession of anticipatory bail by this Court. It has been specifically asserted that the statutory requirements relating to the service and execution of the proclamation notice were not scrupulously complied with. A perusal of the statement dated 25.01.2023 (copy appended as Annexure P-9 with the petition in hand) does not anywhere reflect that the executing official had read out the proclamation at a conspicuous place, as mandatorily required under Section 82 of the Cr.P.C. It has further been asserted that no satisfaction, as contemplated under Section 82 Cr.P.C., regarding due and proper execution of the proclamation against the petitioner, has been recorded in the impugned order. Despite this, the trial Court vide impugned order dated 24.02.2023 declared the petitioner as a proclaimed person, which is not shown to have been executed in conformity with the mandatory provisions of Section 82 Cr.P.C.

6. This Court finds that the course adopted by the Court below is in clear contravention of, and antithetical to, the provisions of Section 82 of the Code of Criminal Procedure, 1973. The Court below has committed a manifest illegality by issuing and acting upon the proclamation without ensuring compliance with the mandatory statutory requirements. The learned Court below, while declaring the petitioner as a proclaimed person, failed to record the requisite judicial satisfaction regarding due execution of the proclamation

and proceeded in a mechanical and perfunctory manner, rendering the impugned order legally unsustainable. Such an order being violative of mandatory provisions of law, cannot be sustained. Section 82 of the Criminal Procedure Code, 1973 reads as under:

“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) The proclamation shall be published as follows: -

(i)(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part of the court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this Section have been complied with, and that the proclamation was published on such day.

[(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under Sections 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459, or 460 of the Indian Penal Code (45 of 1860), and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).”]

7. A Coordinate Bench of this Court while dealing with invocation of the provision of Section 82 of the Code of Criminal Procedure, against an accused in the case of ‘*Sonu v. State of Haryana, 2021(1) RCR (Criminal) 319*’, held as under:

“9. The essential requirements of section 82 of the Cr.P.C., 1973 for issuance and publication of proclamation against an absconder and declaring him as proclaimed person/offender may be summarized 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 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., 1973. (See *Rohit Kumar v. 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 v. Emperor* : AIR 1943 Patna 366 and *Devender Singh Negi v. 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 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&H)* : 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., 1973. 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., 1973 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 Courthouse 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., 1973. 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., 1973 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)."

8. It is by now a settled principle of law that prior to issuing a proclamation under Section 82 Cr.P.C., the Court is required to record its satisfaction that the accused, against whom such proclamation is sought, is absconding or is concealing himself with the intention to evade arrest. This foundational and jurisdictional requirement is conspicuously absent in the present case. A perusal of the impugned order dated 24.02.2023 reveals that no such satisfaction has been recorded by the Court below, nor does the record disclose any material which could justify an inference that the petitioner had absconded or was deliberately avoiding his appearance before the Court.

9. The provisions of Section 82 of the Code of Criminal Procedure, having serious civil and criminal ramifications qua the rights of an accused, particularly affecting his liberty and participation in trial proceedings, cannot be invoked in a casual or cavalier manner. The mandatory requirement of recording satisfaction that the accused has absconded or is concealing himself so that the warrant of arrest cannot be executed, as embodied under Section 82 Cr.P.C., must be scrupulously complied with on the basis of cogent and relevant material available on record. Any non-adherence to this statutory mandate while declaring an accused as a proclaimed person vitiates the proclamation proceedings in their entirety.

10. In the aforesaid backdrop, this Court is of the considered opinion that no useful purpose would be served by permitting the criminal proceedings

CRM-M-73283-2025

to continue against the petitioner, which are founded upon an illegal and procedurally flawed proclamation. It is, therefore, a fit and appropriate case for the exercise of inherent powers under Section 528 of the BNSS / Section 482 of the Cr.P.C., so as to prevent abuse of the process of law and to secure the ends of justice.

11. In view of the above findings, and considering the entirety of the facts and circumstances of the present case, the present petition is allowed. Consequently, the impugned order dated 24.02.2023 (Annexure P-10), passed by the learned Sub Divisional Judicial Magistrate, Pehowa, whereby the petitioner was declared a proclaimed person in a case arising out of FIR No.573 dated 31.10.2019, registered under Sections 10 and 24 of the Immigration Act, 2000 and Sections 406 and 420 of the Indian Penal Code, 1860, at Police Station Pehowa, District Kurukshetra, as well as all consequential proceedings arising therefrom, are hereby quashed.

12. Pending application(s), if any, shall also stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

January 16, 2026
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No