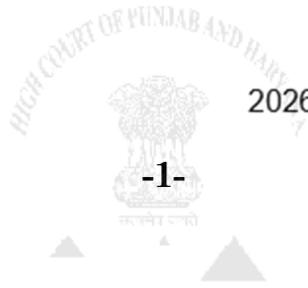


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2026:PHHC:012966



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

**Serial No.107**

**CRM-M-2535-2026  
Decided on:28.01.2026**

Harmeet Singh Pathanmajra

. . . Petitioner

Versus

State of Punjab and another

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Nikhil Ghai, Advocate  
for the petitioner.

Mr. Chanchal K. Singla, Additional Advocate General, Punjab.

**TRIBHUVAN DAHIYA, J.(ORAL)**

The petition has been filed seeking quashing of the order dated 06.10.2025, Annexure P-7, whereby a proclamation was issued against the petitioner, and the order dated 20.12.2025, Annexure P-8, whereby he was declared a proclaimed person by learned Judicial Magistrate First Class, Patiala. Further, the petitioner has sought quashing of orders dated 05.09.2025 and 11.09.2025, Annexures P-3 and P-5 respectively, whereby arrest warrants were issued against him by learned Magistrate on an application moved by the police in case FIR No. 173 dated 01.09.2025 under Sections 376, 420 and 506 IPC, (Section 376(2)(n) IPC added later on) registered at Police Station Civil Lines Patiala, District Patiala.

2. As apparent on record, the FIR in question has been registered on a complaint by the petitioner's wife regarding rape, physical exploitation and



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enticement etc., by the petitioner. It is alleged that the complaint was earlier enquired into by the Deputy Inspector General of Police (DIG), Ropar Range, Ropar, who vide memo dated 08.11.2024, Annexure P-18, concluded that the allegations contained therein did not constitute any cognizable offence, and no action was required to be taken by the police. Still, the petitioner has been implicated in the case only because his relations with the ruling party soured. It is only to settle political scores with him that the present establishment has got the FIR registered. He had filed pre-arrest bail petition before the Additional Sessions Judge, Patiala, on 04.09.2025, whereupon notice was issued to the State for 05.09.2025. And on that date, the case was adjourned on request by the public prosecutor that the police record had not been produced by the Investigating Officer; this is apparent from the short order dated 05.09.2025, Annexure P-9. However, the same day an application was filed by the Station House Officer (SHO), Police Station Civil Lines, Patiala, stating that the petitioner was arrested by the police at Karnal, but he attacked the police party and escaped from custody to some other State. An FIR bearing no. 664 dated 02.09.2025 under Sections 121(1), 132, 221, 263-B and 304 BNS at Police Station Sadar Karnal, was registered against him. Therefore, arrest warrants may be issued. Relevant extract of the application reads as under:

...In the present case, the accused Harmeet Singh, as above, was arrested at Village Dabri, Police Station Sadar Karnal, District Karnal (Haryana). During the course of arrest, the accused, in conspiracy with his other accomplices, attacked the police party and forcibly snatched the police file, including the arrest memo and personal search memo, and escaped from custody. In this



regard, FIR No. 664 dated 02.09.2025 under Sections 121(1), 132, 221, 263, 304 BNS and other relevant provisions has been registered. In the present case, the arrest of the accused Harmeet Singh is still pending. The accused Harmeet Singh, due to fear of his arrest, is absconding and hiding in outside States. Therefore, in order to arrest the accused, it is necessary to go to outside States. Hence, it is humbly prayed that arrest warrants against the accused may kindly be issued.

2.1 In these circumstances, the application was accepted by the Magistrate, and vide impugned order dated 05.09.2025, warrants of arrest were issued against the petitioner for 11.09.2025. As arrest warrants could not be executed, fresh non-bailable warrants of arrest were issued against him for 26.09.2025, vide impugned order dated 11.09.2025.

2.2 After issuance of arrest warrants, efforts were made to arrest the petitioner, but he evaded arrest by hiding at some unknown place. On these facts, the SHO, Patiala, moved an application, dated 26.09.2025, Annexure P-6, for issuance of proclamation against the petitioner to declare him a proclaimed offender. The application was accepted and the proclamation was issued for 20.12.2025 vide impugned order dated 06.10.2025, which reads as under:

6. Accordingly, in view of the aforesaid discussion, this Court is satisfied that the presence of accused Harmeet Singh Pathanmajra cannot be procured without adopting the process of proclamation and this Court is satisfied that accused is intentionally and deliberately evading his arrest in the present case and is not cooperating with the process of law initiated by the police concerned. Therefore, the application for issuance of proclamation filed by the police concerned against accused Harmeet Singh Pathanmajra is



hereby allowed and the proclamation of the accused be issued as per the provision under Section 84 BNSS for 20.12.2025. It is further directed that the serving police official has to return the report of the proclamation on 12.11.2025 to this Court, thereafter, after the completion of proclamation process against the accused as per the provisions of Section 84 BNSS, the presence of the accused be awaited for minimum of 30 days and as such the presence of accused be awaited for 20.12.2025.

2.3 The proclamation issued against the petitioner was duly published, and a statement of the serving Constable to that effect was recorded. After expiry of thirty days therefrom, the petitioner was declared proclaimed person vide impugned order dated 20.12.2025; which reads as under:

Proclamation warrants issued against accused Harmeet Singh received back executed on 15.10.2025. Statement of serving constable SI Gurmeet Singh with regard to proclamation of accused Harmeet Singh already recorded. Stipulated period of 30 days have already expired. As such, above said accused Harmeet Singh son of late Hardev Singh, resident of village Pathanmajra. District Patiala is hereby declared as Proclaimed Person. Necessary intimation to this effect be also given to the concerned police station. Separate proceedings under section 85 of BNSS is hereby initiated against Proclaimed Person Harmeet Singh. The proceedings under section 85 BNSS be registered as Criminal Miscellaneous on CIS system and notice to Investigating Officer be issued for 31.01.2026 with directions to place on record the list of property of Proclaimed Person Harmeet Singh. Ahlmad is directed to make the necessary compliance. Copy of this



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order be sent to the concerned police station for compliance. Papers be attached with the main/file.

3. In this factual background, learned counsel for the petitioner, *firstly*, contended that there was no necessity to seek arrest warrants against the petitioner as the police has ample power to arrest him without warrants, even from outside the State. Besides, warrants cannot be issued in aid of investigation as has been done by learned Magistrate. This is violative of the settled legal proposition and has prejudiced the petitioner's rights. During the course of investigation, arrest warrants cannot be issued for a cognizable offence and it can only be for a non-cognizable offence. *Secondly*, it is contended that neither the mandatory procedure laid down under Section 84 BNSS has been followed, nor have proper reasons been recorded before declaring the petitioner a proclaimed person. He could not have been accused of evading the process of law as his anticipatory bail was pending before the Sessions Court at that time. Also, he was residing in Australia and was never served the notice. In support of the contentions, he has relied upon the law laid down by the Supreme Court in *State through CBI v. Dawood Ibrahim Kaskar and others*, (2000) 10 SCC 438.

4. *Per contra*, Learned State counsel contended that there was no violation of procedure in issuing the arrest warrants or declaring the petitioner a proclaimed person. There was valid reason for issuing the warrants as the petitioner had run away from custody after attacking the police party, and failed to join investigation. He sneaked out of the country despite issuance of look out notices against him pursuant to the arrest warrants and fled to Australia, as mentioned in the petition itself. This fact has come to the



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knowledge of respondents for the first time on receiving advance notice of the petition. He further submitted that non-bailable warrants can be issued by the Magistrate when a person is evading the arrest. In support of his contention, he has relied upon the judgment rendered by the Delhi High Court in *Shravan Gupta v. Directorate of Enforcement*, 2025 NCDHC 9687.

5. Arguments addressed by learned counsel for the parties have been considered.

6. Undisputed position on the record is, pursuant to registration of the FIR in question, dated 01.09.2025, for commission of cognizable offences under Section 376, 420 and 506 IPC, the petitioner was arrested by the police on 02.09.2025 at Karnal. But he escaped from custody after attacking the police party. For this offence, another FIR bearing no. 664 dated 02.09.2025, as aforementioned, was registered. As he had statedly escaped to some other State, an application for issuance of arrest warrants dated 04.09.2025 was filed. It was allowed by learned Magistrate after considering all relevant facts, including his escape from the police custody and hiding somewhere outside the State of Punjab, vide orders dated 05.09.2025 and 11.09.2025. The warrants however remained unexecuted. In these circumstances, proclamation was issued against him, vide order dated 06.10.2025, on an application moved for the purpose by the police. Despite the proclamation having been duly published on 15.10.2015, he failed to appear before the Court and was declared proclaimed person vide order dated 20.12.2025. Due procedure was followed before passing the order as the fact of publication of proclamation on a specified day in the manner prescribed had been duly established before the Court; a statement to that effect by the serving Constable had also been



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recorded. This is a conclusive evidence under Section 84(3) BNSS that requirements of the Section have been complied with. The mandatory period of thirty days had also expired before declaring the petitioner a proclaimed person.

7. The other contention by learned counsel for the petitioner that the arrest warrants could not have been issued by learned Magistrate as it was to aid the police in investigation of the case, is also not sustainable. The petitioner has intentionally evaded the process of law and has gone to the extent of attacking the police to flee from custody. This is a case of open defiance of the process by breaking the law. Accordingly, no exception can be taken to the orders passed by learned Magistrate issuing arrest warrants against him. This is in consonance with the law laid down. A reference can be made to the judgment in *Shravan Gupta* case (*supra*) holding that issuance of non-bailable warrants are justified in case of willful evasion and non-cooperation with investigation by the accused. It discusses entire law on the issue, including *Dawood Ibrahim Kaskar* case (*supra*). The observations are as under:

86. The authority of the Magistrate to issue an NBW is not limited to the post cognizance or trial stage; it explicitly extends to securing the attendance of the accused even while the matter is under investigation.

87. The ambiguity in regards to the scope of power under Section 73 was clarified by the Apex Court in *State v. Dawood Ibrahim Kaskar*, (2000) 10 SCC 438, wherein it was observed that the power under Section 73 Cr.P.C. is an ancillary power provided to the Magistrate to aid the process of law and not just the formal trial. The Court observed that Section 73 is not limited to compelling



attendance during trial and can be used to secure the attendance of an accused during the investigation.

88. The Co-ordinate Bench of this Court in *Ottavio Quattrocchi v. Central Bureau of Investigation (1998) SCC Online Del 519* upheld the Magistrate's power to issue a process (including a warrant) against an absconder even at the investigation stage, to prevent a miscarriage of justice. The Court noted that the Magistrate's authority stems from the general scheme of the Cr.P.C. which permits them to take measures necessary for the effective administration of criminal justice.

89. Further, in *Mrigendra Jalan v. State & Anr. 2008 SCC Online Del 1067*, the Coordinate Bench of this Court after relying on *Dawood Ibrahim Kaskar (supra)* upheld the NBWs issued during the investigation. The Court further observed that where the investigating agency requires the Magistrate's aid to apprehend an absconder who is deliberately evading investigation, the Magistrate can certainly issue the NBW.

90. Another co-ordinate Bench of this Court in *Sukhmeet Singh Anand v. State of NCT Delhi, 2018 SCC Online Del 10674*, reiterated the same principle that a Magistrate has the authority under Section 73 Cr.P.C. to issue a Non-Bailable Warrant against an accused who is absconding and is required for the purpose of investigation.

91. The aforesaid judgements make it explicit that the issuance of an NBW is the logical and necessary consequence when an accused, having sufficient notice of the proceedings, *chooses to wilfully disregard the investigative process*. The issuance of an NBW becomes necessary when the accused's conduct suggests that he is evading the investigation. This evasion is clearly demonstrated by the failure to join the probe despite service of summons.



92. In *Anil Kumar Madan*, (supra) the Co-ordinate Bench of this Court observed that the accused's persistent non-cooperation and non-appearance, even after being given opportunities, justified the issuance of NBWs. The Court found that the conduct of the accused in "*continuously defying the process of law*" necessitates the use of coercive mechanisms to ensure their participation.

93. The justification for an NBW is significantly strengthened when the investigating agency has already established a prima facie involvement of the accused in the alleged offence. In *A. Krishna Reddy* (supra) another Co-ordinate Bench of this Court, explicitly noted that the Investigating Officer had concluded that the Petitioner was *prima facie* guilty and his custodial interrogation was necessary. This strong preliminary finding, coupled with the accused's failure to join the investigation, made the issuance of the NBW warranted and proper.

94. The Petitioner has vehemently relied on the case of *Inder Mohan Goswami* (supra), but the facts are distinguishable. Undeniably, NBWs are an extraordinary measure that should only be issued in compelling circumstances, such as (i) belief that the person will not voluntarily appear; (ii) inability to serve a summons or (iii) fear of the person causing harm/tampering with evidence. However, in *Goswami* the caution against the State misusing NBWs was in the context of *civil or trivial cases*, and it was noted that NBWs should generally be avoided *unless the accused is charged with a "heinous crime"*. The rationale is to prevent the criminal justice system from being used as a tool of harassment.

95. The present case however, involves serious economic crime and a deliberate evasion of the judicial process by the accused, and therefore, the judgement of *Goswami* (supra) is distinguishable on facts.



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8. As discussed hereinbefore, the petitioner, who is accused of serious and heinous offences, has deliberately disregarded the investigative process and is absconding. He is also accused of slipping out of the country by adopting fraudulent means. Issuance of arrest warrants against him, therefore, cannot be termed a measure of harassment; rather, it was justified to secure his presence for investigation.

9. For the reasons recorded above, there is no ground to entertain the petition and it stands dismissed.

28.01.2026

*Mehak*

**(TRIBHUVAN DAHIYA)**  
**JUDGE**

*Whether reasoned/speaking? Yes/No*  
*Whether reportable? Yes/No*