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

CRM-M-47630-2025 (O&M)

Date of decision : 05.03.2026

KULDEEP SINGH

..... **PETITIONER**

VERSUS

STATE OF PUNJAB AND ANOTHER

.....**RESPONDENTS**

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Parmod Bhardwaj, Advocate for
Mr. Amit Kaushik, Advocate
for the petitioner.

Mr. Kunwarbir Singh, AAG Punjab.

SHALINI SINGH NAGPAL J.

1. Kuldeep Singh, accused in criminal case arising out of FIR No.0051 dated 18.03.2022 under Sections 376, 363, 366, 506 Indian Penal Code and Section 4 Protection of Children from Sexual Offences Act, Police Station Mahilapur, District Hoshiarpur, Punjab, has filed this petition under Section 528 of Bharatiya Nagrik Suraksha Sanhita, 2023 for quashing order dated 23.02.2023 of learned Additional District and Sessions Judge, Fast Track Special Court, Hoshiarpur, declaring him a “proclaimed offender”.

2. Learned counsel for the petitioner submits that petitioner had been falsely implicated by the prosecutrix with whom he was in a consensual relationship. He could not join the proceedings before learned trial Court as he was not in India on the date of registration of the FIR having flown to Dubai on 18.03.2022 where he was gainfully employed. Petitioner planned to leave the country even before the FIR was lodged and made bookings accordingly. To support his arguments, learned counsel



referred to Annexure P2, copy of the passport with the date of departure and date of arrival in India. It was argued that issuance of proclamation under Section 82 Cr.P.C. vide order dated 07.01.2023 and declaring the petitioner a proclaimed offender on 23.02.2023 when he was abroad, was in violation of Section 82 Cr.P.C. Moreover, petitioner and respondent No.2 had since solemnized marriage on 09.07.2025 according to Sikh rites and rituals and were living together as husband and wife. In this context, he refers to Annexure P7, copy of their marriage certificate. It is argued that when the proclamation was issued, petitioner was abroad and no efforts were made by the Court to serve the warrants/proclamation through the Ministry of External Affairs, as per established procedure nor any genuine effort was made to ascertain petitioner's foreign address or serve him through international channel. The proclamation order was passed mechanically and petitioner was not given proper opportunity to appear before the court. It is thus prayed that order dated 23.02.2023 be quashed.

3. Notice of motion.

4. Mr. Kunwarbir Singh, AAG Punjab, accepts notice on behalf of respondent No.1-State and submits that despite publication of the proclamation, petitioner failed to appear before learned Additional Sessions Judge, Fast Track Special Court, Hoshiarpur and was rightly declared proclaimed offender. Supporting the order of learned trial Court dated 23.02.2023, he prayed for dismissal of the petition.

5. Annexure P2 is the copy of passport of the petitioner which shows that he departed from India on 18.03.2022 i.e. the date of registration of the FIR. Apparently, all the formalities relating to departure i.e. Visa, purchase of tickets etc. must have been completed much before the



registration of the FIR. Copy of order dated 16.07.2022 of learned Additional Sessions Judge, Fast Track Special Court, Hoshiarpur reveals that non-bailable warrants issued against the petitioner were received back with the report that he had gone abroad. Prosecution was directed to furnish correct foreign address of the accused on or before next date of hearing. Thereafter, the case was adjourned to 28.07.2022, 17.08.2022, 03.09.2022, 17.09.2022, 01.10.2022, 13.10.2022, 26.10.2022 and 02.11.2022 but foreign address of the petitioner was not furnished. On 02.11.2022, non-bailable warrants were received back with the report that foreign address of the petitioner was not available, so, warrants be issued at the local address. Thereafter, learned trial Court started issuing non-bailable warrants of arrest at the address of Village Chakli Mangal, PS Machhiwara, District Ludhiana for 21.11.2022, 08.12.2022, 21.12.2022 and 07.01.2023. Issuance of warrants at the local address when the Court was well aware that petitioner was out of country was itself illegal.

6. On 07.01.2023, on report that accused had absconded due to registration of case again him, proclamation under Section 82 Cr.P.C. was ordered to be issued. The order merely states that accused cannot be served through ordinary manner. There is no *prima facie* satisfaction recorded in the order dated 07.01.2023 that the petitioner had absconded or was concealing himself or that the warrant of arrest previously issued cannot be executed. On this ground too, the order under challenge deserves to be set aside.

7. Petitioner left the country on 18.03.2022 and was abroad when non-bailable warrants were issued against him for the first time. It cannot, therefore, be held that petitioner had absconded in order to evade the execution of warrants. There is no material on record to show that any effort



was made to serve the petitioner through diplomatic process. Thus, the issuance of proclamation by learned Additional District and Sessions Judge, Fast Track Special Court, Hoshiarpur was not warranted and the proclamation was bad in law.

8. A Coordinate Bench of this Court in CRM-M-6246-2017 titled **“Sucha Singh Vs. State of Punjab”**, has observed as under:

“A person cannot be said to be "abscond" or "evade" the execution of warrant when he had gone to a distant place before the issue of the warrant. Dependence can be made on the judicial dictum rendered in the case of "M.S.R. Gundappa v. State of Karnataka" (1977 Cr LJ NOC 187), wherein it was held that a person who had gone abroad even before the issue of the warrant of arrest cannot be said to be absconding or concealing himself with the intention to disrupt the execution of that warrant.”

9. In **Mehar Singh and Another Vs. State of Punjab** CRM-M-1513-2009, this Court held as under:

"In the present case, since the petitioners were already residing in Canada before the registration of FIR in question i.e. since the year 1997, there was no occasion for them to conceal themselves or abscond. A perusal of order dated 7-10-2008 (Annexure P-10) and order dated 21-12-2007 (Annexure P-4) does not reveal that the petitioners were ever attempted to be served in Canada especially when there was no material on record that the petitioners had left the country after the registration of FIR in question with a view to abscond or



conceal themselves. Rather in the inquiries conducted by the police, the petitioners were found to be innocent because the alleged papers in question were prepared in Canada. Thus, the petitioners were declared proclaimed offenders in violation of Section 82, Criminal Procedure Code. Accordingly, the impugned order date 7-10-2008 (Annexure P-10), whereby the petitioners were declare proclaimed offenders, is set aside."

10. Consequently, impugned order of learned Additional District and Sessions Judge, Fast Track Special Court, Hoshiarpur, dated 23.02.2023 declaring the petitioner a "proclaimed offender" cannot be sustained in law and is hereby set aside and quashed. Since, petitioner has not ever joined investigation, he is directed to surrender before learned Additional District and Sessions Judge, Fast Track Special Court, Hoshiarpur, within a period of three months from today. Learned learned Additional District and Sessions Judge, Fast Track Special Court, Hoshiarpur shall proceed further in the matter, in accordance with law, subject to orders of grant of anticipatory bail, if any. On such surrender, petitioner shall be liable to be remanded to custody, subject to any order of regular bail passed by the concerned Court, in accordance with law.

11. It is, however, clarified that in case petitioner fails to appear before learned trial Court within the stipulated time, the petition shall be deemed to be dismissed.

12. The petition is allowed, on the terms above.

13. Pending miscellaneous applications, if any, stand disposed of.

(SHALINI SINGH NAGPAL)

JUDGE

05.03.2026

Sumit Singla

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No