

**CRWP-12623-2026 (O&M)****149****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRWP-12623-2026 (O&M)
Date of decision 15.10.2026****BALDEV SINGH BAJWA****..... PETITIONER****VERSUS****STATE OF PUNJAB AND ANOTHER****.....RESPONDENTS****CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL****Present: Mr. Nikhil Ghai, Advocate
for the petitioner.****Mr. Kunwarbir Singh, AAG Punjab.****SHALINI SINGH NAGPAL J.***********

1. Petitioner Baldev Singh Bajwa, accused in FIR No.237 dated 21.10.2023 under Sections 406, 420, 120-B Indian Penal Code, Police Station Kharar, District SAS Nagar, Mohali has filed this Criminal Writ Petition under Article 226 of the Constitution of India and Section 528 Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of order dated 16.04.2026 and 29.09.2026 of learned Judicial Magistrate Ist Class, Kharar declaring him a “proclaimed offender”.

2. Learned counsel for the petitioner submits that petitioner was allowed regular bail in the case by this Court vide order dated 27.11.2024. He had been regularly appearing before the trial Court. Petitioner absented on 12.03.2026 and 16.04.2026 whereupon, learned trial Court cancelled his bail, without serving notice and without following due process of law. Petitioner was declared a ‘proclaimed offender’ on 29.09.2026 without complying with the mandatory procedure prescribed under Section 84



BNSS. He further submits that dispute between complainant and the petitioner had been amicably resolved through a compromise. Petitioner was ready and willing to join the proceedings before learned trial Court. He thus, prayed that impugned orders dated 16.04.2026 and 29.09.2026 be set aside.

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 JMIC, Kharar and was rightly declared proclaimed offender. Supporting the order of learned trial Court dated 29.09.2026, he prayed for dismissal of the petition.

5. Section 82 Cr.P.C. which provides for publication of proclamation against a person absconding is reproduced hereunder for the facility of reference:-

—(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. 50 1

[(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence punishable under section 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).]

6. A co-ordinate Bench of this Court in **CRM-M-41715-2021** titled **“Anita Sharma Vs. State of Punjab”**, date of decision **26.03.2021**, has summarized the essential requirements of Section 82 Cr.P.C. 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 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.. (See **Rohit Kumar Vs. 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 Vs. Emperor**:*

*AIR 1943 Patna 366 and **Devender Singh Negi Vs. 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 an publication of the proclamation. (See **Gurappa Gugal and others Vs. State of Mysore** 1969 CriLJ 826 and **Shokat Ali Vs. 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

*4 of 8 declared a proclaimed person/offender and the proclamation has to be issued and published again. (See **Dilbagh Singh Vs. State of Punjab (P&II):***

*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.. 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. 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 Singh Vs. The State**: 1955 CriLJ 318)".*

7. Annexure P2 is the order of this Court allowing petitioner's application for bail. It appears from the record that petitioner absented from



the Court on 12.03.2026. Notice was directed to him for 24.03.2026 and again for 16.04.2026. On 16.04.2026, when petitioner failed to appear, his bail was cancelled, bonds forfeited and non-bailable warrants of arrest were issued against him for 08.05.2026 and again for 05.06.2026.

8. On 05.06.2026, the Court recorded satisfaction that presence of accused Baldev Singh could not be procured through present mode of process and ordered that he be summoned by way of proclamation.

9. There is no *prima facie* satisfaction recorded in the order that the petitioner had absconded from the proceedings.

10. Proclamation was issued by the Court for 05.08.2026. However, on that day, he was not declared 'proclaimed offender' and the case was adjourned to 18.08.2026 for notice to the serving official. The statement of serving official ASI Parminder Singh was finally recorded on 29.09.2026 on the following lines.

"Stated that on dated 15.06.2026. I went to the residence of the accused Baldev Singh Bajwa for executing the proclamation of the accused Baldev Singh Bajwa in compliance with the order passed by this Court but the accused was not available at the given address. Thereafter, I affixed one copy of the proclamation notice in the locality where the accused Baldev Singh Bajwa resides. Thereafter, I affixed the second copy of the proclamation notice at the public place/conspicuous place i.e. Bus Stand Kharar and the third copy was affixed by me at the notice board of the Court Complex, Kharar. The copy of the proclamation issued against the accused Baldev Singh Bajwa is Ex.PA and my report regarding the same is Ex.PB."

11. As per Section 84(2)(i)(a) BNSS, notice of proclamation is to



be publicly read in some conspicuous place of the town or village in which such person ordinarily resides. It also required to be affixed in some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village besides affixation on the Court-house.

12. It is evident from the statement of ASI Parminder Singh that the proclamation was not publicly read over in any place of town or village where petitioner resided. The three sub-clauses (a)-(c) in Section 84(2)(i)(a) BNSS 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. All three sub-clauses are mandatory and any violation whereof entails quashing of the order declaring an accused, a proclaimed person/offender.

13. There is another flaw in the proceedings. Proclamation was issued for 05.08.2026 and was received back served on the same day, however, the case was adjourned to 18.08.2026, 01.09.2026 and 29.09.2026 for notice to serving official. On 29.09.2026, statement of serving official was recorded and petitioner was declared a 'proclaimed offender'. No fresh proclamation was issued for 29.09.2026 and there was no publication regarding the subsequent date fixed for appearance of the petitioner i.e. 29.09.2026 which was never notified to him. Adjournment of the case from 05.08.2026 to 29.09.2026 was not as per law and it cannot be said that mandate of Section 84(1) BNSS was complied with. Thus, in view of ratio laid down by this Court in ***Ashok Kumar Vs. State of Haryana and Another. 2013 (4) RCR (Criminal) 550*** and ***Navneet Sharma Vs. State of Punjab and Others, 2024 NCPHHC 10973***, it is held that the trial Court failed to adhere to provisions of Section 84(1) BNSS On this ground,



impugned order dated 29.09.2026 cannot sustain.

14. Still further, the offences invoked against the petitioner i.e. Sections 406, 420 and 120-B IPC are not punishable with imprisonment of 10 years or more as per Section 84(4) BNSS. Therefore, petitioner could not have been declared proclaimed offender but a “proclaimed person” or “absconder”. On this ground too, impugned order is vitiated.

15. Consequently, impugned order of learned Judicial Magistrate Ist Class, Kharar dated 29.09.2026 declaring the petitioner a “proclaimed offender” cannot be sustained in law and is hereby set aside and quashed, subject to payment of costs of Rs.30,000/- to be deposited by petitioner in Poor Patient Welfare Fund, Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh within 30 days from today.

16. Petitioner is directed to surrender before learned Judicial Magistrate Ist Class, Kharar within 30 days from today and move an application for regular bail which learned trial Court shall decide expeditiously, uninfluenced by the observations made in this order.

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

18. The petition is **allowed**, on the terms above.

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

(SHALINI SINGH NAGPAL)
JUDGE

15.10.2026
Sumit Singla

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