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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-37767-2026 (O&M)
Date of Decision: 11.09.2026

RANI

..... PETITIONER

VERSUS

RAKESH KUMAR AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Vishal Sharma (Vasudeva), Advocate
for the petitioner.

None for respondent No.1.

Mr. Akash Yadav, AAG, Punjab.

SHALINI SINGH NAGPAL J.

*****

1. Petitioner seeks quashing of order dated 22.08.2025 issuing non- bailable warrants, order dated 10.12.2025 issuing proclamation, order dated 27.01.2026 declaring petitioner a proclaimed person and all subsequent proceedings arising therefrom, in the proceedings under Section 138 of Negotiable Instruments Act, 1881.

2. Learned counsel for the petitioner submits that in a complaint under Section 138 of Negotiable Instruments Act, 1881, proclamation under Section 82 Cr.P.C. was issued by learned Judicial Magistrate Ist Class, against the petitioner on 10.12.2025 for 14.01.2026. On 14.01.2026, however, the case was adjourned to 27.01.2026, awaiting presence of the petitioner as statutory period of 30 days was not complete as per mandate of Section 82 Cr.P.C. He argues that adjournment of the case from 14.01.2026 to 27.01.2026 could not be termed as compliance of Section 82 Cr.P.C.

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inasmuch as petitioner had no notice of the date fixed i.e. 27.01.2026. It is prayed that the order declaring the petitioner a proclaimed person was defective, illegal and deserved to be set aside.

3. Notice of motion was issued on 14.07.2026 for today i.e. 11.09.2026.

4. As per report of Registry, notice issued to respondent No.1 has been received back duly served but he has not opted to appear and contest the petition.

5. Heard. 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;*

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(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. Apparently proclamation under Section 82 Cr.P.C. was issued in this case on 10.12.2025 for 14.01.2026. Order dated 14.01.2026 of learned JMIC, Garhshankar shows that proclamation was published on 20.12.2025 and clear 30 days were not afforded to the petitioner from the date of publication of the proclamation. The period between publication of proclamation and the specified date of hearing (14.01.2026) being less than

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30 days, petitioner could not have been declared proclaimed person and proclamation was required to be reissued and published again. On 14.01.2026, the case was adjourned to 27.01.2026 as period of 30 days was not complete. The date fixed for appearance of the petitioner was 27.01.2026, however, petitioner was not aware of the date fixed. Adjournment of the case from 14.01.2026 to 27.01.2026 would not cure the inherent defect in the proclamation proceedings and it cannot be said that mandate of Section 82(1) Cr.P.C. 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 82(1) of Cr.P.C.

7. Accordingly, impugned order of learned Judicial Magistrate Ist Class, Garhshankar dated 27.01.2026 declaring the petitioner a "proclaimed person" cannot be sustained in law and is hereby set aside and quashed.

8. On 14.07.2026, petitioner was directed to surrender before the Trial Court and was ordered to be admitted to interim bail to the satisfaction of the Court concerned. Copy of order dated 05.08.2026 of learned JMIC, Garhshankar has been placed on record which shows that petitioner has surrendered in the Court and has been released on bail on her furnishing bail bonds in sum of Rs.1,00,000/- with one surety in the like amount. Order dated 14.07.2026 granting interim bail to the petitioner is made absolute.

9. The petition stands disposed of, on the terms above.

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

(SHALINI SINGH NAGPAL)
JUDGE

11.09.2026
Sumit Singla

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

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