



2026:DHC:2820



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

*Judgment reserved on: 29.01.2026**Judgment pronounced on: 04.04.2026**Judgment uploaded on: 04.04.2026*+ **CRL.REV.P. 37/2024 & CRL.M.A. 730/2024**

MOHD AMAN RANA

.....Petitioner

Through: Mr. Vikas Sharma, Advocate

versus

THE STATE

.....Respondent

Through: Mr. Naresh Kumar Chahar,
APP for the State with Ms.
Amisha Dahiya, Advocate**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of this petition, the petitioner seeks quashing of the order dated 12.10.2023 [hereafter '*impugned order*'], passed in by the learned Additional Sessions Judge (SC-POCSO), North East, Karkardooma Courts, Delhi [hereafter '*Sessions Court*'], in SC No. 275/2023, arising out of FIR No. 462/2023, registered at Police Station New UsmanPur, Delhi, for commission of offences punishable under Section 376 of the Indian Penal Code, 1860 [hereafter '*IPC*'] and Section 6 of the Protection of Children from Sexual Offences Act, 2012 [hereafter '*POCSO Act*'], *vide* which the



2026:DHC:2820



petitioner herein had been declared a '*proclaimed offender*' under Section 82 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'].

2. Briefly stated, the prosecution case is that on 13.06.2023, at about 8:30 PM, the complainant had sent her 8-year-old daughter, 'A', to a nearby shop to buy salt. Shortly thereafter, the child returned crying and informed her family members that while she was on her way to the shop, co-accused Roshan, who lives nearby, had called her inside her house. It is alleged that when Roshan went to the kitchen, the present petitioner pulled down the child's pyjama, touched her private parts and thereafter made her sit on his lap after removing his pants. When the child started crying, Roshan allegedly slapped her. The victim had later reported the incident to her, and subsequently, the present FIR came to be registered.

3. On 20.06.2023, the petitioner's application seeking anticipatory bail was rejected by the learned Sessions Court. Thereafter, on an application moved by the Investigating Officer (I.O.), Non-Bailable Warrants (NBWs) were issued against the petitioner *vide* order dated 08.08.2023, returnable on 18.08.2023. On 18.08.2023, the learned Sessions Court issued process against the petitioner under Section 82 of Cr.P.C., returnable on 26.09.2023.

4. In the meantime, the petitioner filed a second anticipatory bail application before the learned Sessions Court on 28.08.2023. On 12.10.2023, after recording the statement of the concerned process



2026:DHC:2820



server, the learned Sessions Court declared the petitioner a proclaimed offender by way of the impugned order. The petitioner thereafter moved an application seeking cancellation of the process issued under Section 82 of Cr.P.C. However, both the second anticipatory bail application as well as the application seeking cancellation of the process issued under Section 82 Cr.P.C. were dismissed *vide* order dated 07.11.2023.

5. Aggrieved by the order dated 12.10.2023 declaring him a proclaimed offender, the petitioner initially filed W.P. (Crl.) No. 3791/2023 before this Court. The said writ petition was dismissed as withdrawn on 21.12.2023, with liberty granted to the petitioner to avail the appropriate remedy by filing a revision petition against the impugned order. Pursuant thereto, the present petition has been filed.

6. The operation of the impugned order was stayed by this Court on the first date of hearing, i.e., 09.01.2024. However, upon dismissal of the anticipatory bail application filed by the petitioner before this Court on 11.09.2024, the interim order passed in the present petition was also withdrawn *vide* order dated 11.09.2024.

7. The learned counsel appearing for the petitioner argues that the learned Sessions Court erred in passing the impugned order declaring the petitioner a proclaimed offender. It is argued that the order is contrary to the mandate of Section 82(4) of Cr.P.C., as the petitioner had not been charged with any of the offences specified therein and, therefore, could not have been declared a proclaimed offender within



2026:DHC:2820



the meaning of the provision. It is further submitted that the learned Sessions Court wrongly concluded that the petitioner was absconding and deliberately avoiding his appearance before the Court. The learned counsel argues that the petitioner was in fact pursuing legal remedies available to him by filing anticipatory bail applications, and merely seeking such protection cannot be construed as evasion of the process of law. It is also submitted that the application filed by the petitioner seeking cancellation of the proclamation was decided along with his second anticipatory bail application *vide* order dated 07.11.2023. The learned counsel contends that the learned Sessions Court failed to properly consider the chronology of events. While process under Section 82 of Cr.P.C. was issued on 18.08.2023 and the petitioner was declared a proclaimed offender on 12.10.2023, the petitioner had already filed his second anticipatory bail application on 28.08.2023, which remained pending on the date of the passing of impugned order. It is therefore submitted that the petitioner was *bona fide* pursuing remedies available to him under law and cannot be said to have absconded or evaded the judicial process. Accordingly, it is prayed that the impugned order be set aside.

8. Conversely, the learned APP appearing for the State opposes the present petition and argues that the allegations against the petitioner are serious in nature. It is stated that after the petitioner's first anticipatory bail application was dismissed by the learned Sessions Court, several raids were conducted by the police at the address provided by him; however, he could not be found there and



2026:DHC:2820



no information regarding his whereabouts was available. It is further submitted that in view of the petitioner's non-availability, NBWs were issued against him *vide* order dated 08.08.2023. Despite further efforts by the police, the petitioner could not be traced, following which proceedings under Section 82 of Cr.P.C. were initiated on 18.08.2023. The learned APP argues that the proclamation under Section 82 of Cr.P.C. was duly executed by affixation and public announcement directing the petitioner to appear before the learned Sessions Court on 26.09.2023. However, the petitioner failed to appear, and consequently, after recording the statement of the concerned process server, the learned Sessions Court declared him a proclaimed offender *vide* order dated 12.10.2023. It is therefore prayed that the present petition be dismissed.

9. This Court has **heard** arguments addressed on behalf of the petitioner as well as the State, and has perused the material available on record.

10. In the present petition, the petitioner has raised two-fold contentions. *Firstly*, it is submitted that at the time when the petitioner was declared a proclaimed offender, his application for anticipatory bail was pending before the learned Sessions Court and, therefore, it cannot be inferred that he was deliberately evading the process of law. *Secondly*, it is contended that in view of Section 82(4) of Cr.P.C., the petitioner could not have been declared a 'proclaimed offender', as the offences alleged against him do not fall within the categories of offences specified under the said provision.



2026:DHC:2820



11. In the present case, this Court notes that the FIR was registered against the petitioner on 14.06.2023. Thereafter, the petitioner filed an application seeking anticipatory bail, which was dismissed by the learned Sessions Court on 20.06.2023. As reflected in the Status Report, several raids were thereafter conducted by the police on 03.07.2023, 10.07.2023, 22.07.2023, 28.07.2023, 07.08.2023, 16.08.2023 and 17.08.2023. However, despite such efforts, the petitioner could not be located either at the address available with the police or at any other known place. The Status Report further records that the petitioner's wife expressed her inability to inform the police about his whereabouts.

12. In these circumstances, NBWs were issued against the petitioner by the learned Sessions Court on 08.08.2023. Subsequently, proceedings under Section 82 of Cr.P.C. were initiated against him on 18.08.2023. The statement of the concerned process server was thereafter recorded and the petitioner was ultimately declared a proclaimed offender *vide* order dated 12.10.2023. It is also an admitted position that the petitioner had filed a second anticipatory bail application before the learned Sessions Court on 28.08.2023, by which time the process under Section 82 of Cr.P.C. had already been issued against him.

13. It is pertinent to note that the proclamation issued under Section 82 of Cr.P.C. was returnable on 26.09.2023, thereby granting the petitioner an opportunity to appear before the learned Sessions



2026:DHC:2820



Court prior to the said date. However, instead of appearing before the Court, the petitioner chose to pursue his second anticipatory bail application filed on 28.08.2023. Thereafter, *vide* order dated 07.11.2023, the learned Sessions Court rejected both the second anticipatory bail application as well as the application seeking setting aside of the order declaring him a proclaimed offender, and directed the police to take appropriate steps under Section 174A of IPC.

14. It is the petitioner's contention that since he had filed his second application for anticipatory bail and the same was pending before the learned Sessions Court, the order declaring him a proclaimed offender ought not to have been passed, as he was neither absconding nor evading the process of law. The said contention, however, is unmerited in view of the decision of the Hon'ble Supreme Court in ***Srikant Upadhyay v. State of Bihar***: (2024) 12 SCC 382, wherein it has been held that filing an application for anticipatory bail through an advocate does not constitute an appearance before the Court for a person against whom proceedings under Sections 82/83 of Cr.P.C. are being initiated. The relevant observations are as under:

“19. Bearing in mind the aforesaid provisions and position, we will refer to certain relevant decisions. In *Savitaben Govindbhai Patel & Ors. v. State of Gujarat*, the High Court of Gujarat observed thus: (SCC OnLine Guj para 9)

“9. *Filing of an Anticipatory Bail Application by the petitioners-accused through their advocate cannot be said to be an appearance of the petitioners-accused in a competent Court, so far as proceeding initiated under Section 82/83 of the Code is concerned; otherwise each*



absconding accused would try to create shelter by filing an Anticipatory Bail Application to avoid obligation to appear before the court and raises the proceeding under Section 83 of the Code claiming that he cannot be termed as an absconder in the eye of law. Physical appearance before the Court is most important, if relevant scheme of Sections 82 and 83, is read closely.”

(emphasis supplied)

24. We are in full agreement with the view taken by the Gujarat High Court that filing of an anticipatory bail through an advocate would not and could not be treated as appearance before a court by a person against whom such proceedings, as mentioned above are instituted.

29.Pending the application for anticipatory bail, in the absence of an interim protection, if a police officer can arrest the accused concerned how can it be contented that the court which issued summons on account of non-obedience to comply with its order for appearance and then issuing warrant of arrest cannot proceed further in terms of the provisions under Section 82, Cr.PC, merely because of the pendency of an application for anticipatory bail. If the said position is accepted the same would be adopted as a ruse to escape from the impact and consequences of issuance of warrant for arrest and also from the issuance of proclamation under Section 82, Cr.PC, by filing successive applications for anticipatory bail. In such circumstances, and in the absence of any statutory prohibition and further, taking note of the position of law which enables a police officer to arrest the applicant for anticipatory bail if pending an application for anticipatory bail the matter is adjourned but no interim order was passed. We have no hesitation to answer the question posed for consideration in the negative. In other words, it is made clear that in the absence of any interim order, pendency of an application for anticipatory bail shall not bar the Trial Court in issuing/proceeding with steps for proclamation and in taking steps under Section 83, Cr.PC, in accordance with law.”

15. Thus, the Hon’ble Supreme Court has clearly held that the mere filing of an anticipatory bail application cannot operate as a bar to the initiation or continuation of proceedings under Section 82 of



2026:DHC:2820



Cr.P.C. If such a proposition was to be accepted, it would enable accused persons, against whom NBWs have already been issued and proceedings under Section 82(1) of Cr.P.C. have been initiated, to repeatedly file successive anticipatory bail applications only to delay or evade arrest, and thereafter contend that the proclamation proceedings are invalid. Permitting such a course would defeat the very purpose of proclamation proceedings and allow the process of law to be misused. Accordingly, the mere filing or pendency of an anticipatory bail application cannot be treated as a valid ground to restrain the learned Sessions Court from proceeding in accordance with law under Section 82 of Cr.P.C.

16. Thus, on this ground, no relief is made out in favour of the petitioner.

17. The second contention raised by the petitioner is that he has been chargesheeted for offences punishable under Section 376 of the IPC and Section 6 of the POCSO Act, and that the offences alleged against him do not fall within the categories of offences specified under Section 82(4) of Cr.P.C. On this basis, it is argued that the petitioner could not have been declared a proclaimed offender.

18. Before examining this contention, it would be apposite to refer to the legal position governing the initiation of proceedings under Section 82 of Cr.P.C. Section 82 of Cr.P.C. 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 home-stead 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 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).”

19. A plain reading of the above provision shows that Section 82 of Cr.P.C. empowers the Court to issue a proclamation against a



person who is absconding or concealing himself so that a warrant issued against him cannot be executed. The use of terms '*reason to believe*' in the sub-section (1) of the Section 82 Cr.P.C, suggests that the concerned Magistrate must be subjectively satisfied that the person concerned has absconded or has concealed himself. The provision also prescribes the manner in which such proclamation is to be published. Sub-section (4) further provides that in cases where the accused is charged with certain specified serious offences under the IPC, and fails to appear despite the proclamation, the Court may declare such person a "proclaimed offender" after making such inquiry as it deems fit.

20. The Co-ordinate Bench of this Court in ***Sanjay Bhandari v. State (NCT of Delhi)***: 2018 SCC OnLine Del 10203 observed that where a proclamation has been issued against a person accused of an offence other than those specifically enumerated under Section 82(4) of Cr.P.C., such a person would be treated as a '*proclaimed person*' and not as a '*proclaimed offender*'. The relevant portion of the decision is extracted hereunder:

"9. Section 82(1) empowers a court to publish a written proclamation against a person, 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. This proclamation is issued if the court has reason to believe that a person against whom a warrant has been issued by it, has absconded or is concealing himself so that such warrant cannot be executed. Further, it may be noticed that proclamation can be issued not only against a person, against whom a warrant has been issued and who has absconded but also against a person who is concealing himself so that such warrant cannot



be executed.

10. Section 82(2) stipulates the manner and procedure of such proclamation. Section 83(3) stipulates that 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.

11. Section 82(4) and 82(5) were inserted by the 2005 amendment of the Code w.e.f. 23.06.2006. Section 82(4) stipulates that a person, in respect of whom a proclamation has been published under section 82(1), if he fails to appear at the specified place and time required by the proclamation and if he is accused of offences mentioned in Section 82(4), the court may pronounce him as a *proclaimed offender*, after making such inquiry as it things fit. Section 82(5) stipulates that the provisions of Section 82(2) and (3) shall apply to a declaration made by the court under section 82(4) as they apply to a proclamation made under 82(1).

12. Other than section 82(4), Section 82 does not stipulate the consequences of non-compliance of the proclamation issued under it. 82(4) stipulates that where the proclaimed person fails to appear at the specified place and time, the court may pronounce him as a *proclaimed offender*. This pronouncement as a *proclaimed offender* can only be issued if he is accused of the offences stipulated in 82(4) and that also, only after the court has made such inquiry as it deems fit. There is no provision, other than section 82(4) in the Cr. P.C., under which the court can pronounce a person as a *proclaimed offender*.

26. Section 174 makes it an offences if a person being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart. Section 174 applies to all persons and public servants and is in respect of summons, notice, order or proclamation proceeding. Section 174 is not restricted only to accused but *inter alia* encompasses in its scope, witnesses, parties to civil and criminal proceedings, noticees to whom notice may have



been issued by public authorities.

27. On the other had section 174A makes it an offence if a person, required by a proclamation published under sub-section (1) of section 82, to appear, fails to appear. It further stipulates that if such a person fails to appear he would be punishable with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under section 82(4) against such a person, pronouncing him as a proclaimed offender, then he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

28. Under section 82(1) Cr. P.C. a proclamation can be issued only against a person against whom a warrant has been issued and has absconded or is concealing himself so that such warrant cannot be executed. Clearly, the scope and operation of sections 174 and 174A are different. However, there may be an overlap in their operation but largely they operate in different spheres. Persons covered by section 174A second part would be a sub set of persons covered by section 174A first part who in turn would be subset of persons covered by section 174 IPC.

29. Further it may be seen that sections 83, 84 and 85 Cr. P.C., which provide for attachment of property of person absconding, claims & objections thereto and release, sale and restoration of attached properties of persons qua whom a declaration under section 82 has been issued, uses the expression '*Proclaimed Person*'.

30. The provisions of Section 82 to 84 become applicable on the issuance of the proclamation and are not dependent on the declaration under section 82(4).

31. I am thus of the view that a person who is accused of offences other than the ones enumerated in section 82(4) and qua whom a proclamation has been published under section 82(1) would be a '*Proclaimed person*' and not a deemed '*Proclaimed Offender*'.

32. As noticed above, there is no provision other than section 82(4) for pronouncing such a person as a proclaimed offender and 82(4) applies only in respect of persons accused of sections of IPC enumerated therein.”

21. The aforesaid judgment was followed by another Co-ordinate



Bench of this Court in *Avinash Singh v. State*: 2026:DHC:35, wherein it was held as under:

“28. It has been rightly contended by the Petitioner that the offence under NDPS Act, does not feature in the category of the offences defined under Section 82(4) and therefore, he could not have been declared as a *Proclaimed Offender* but a ***Proclaimed Person***, as has also held in the case of *Sanjay Bhandari* (supra). It is, therefore, held that though the procedure to be followed for a Proclamation to be issued is the same, but it is only for the offences specified in Section 82(4) that a person can be declared as a *Proclaimed Offender* and all other persons are to be considered as *Proclaimed Person*.

29. The Impugned Order dated 07.03.2022 of learned ASJ, therefore, is erroneous to the extent of declaring the Petitioner as a *Proclaimed Offender*. **He be considered as a Proclaimed Person.**”

22. Section 82(4) of Cr.P.C. specifically enumerates certain offences under the IPC in respect of which an absconding person may be declared a proclaimed offender. Admittedly, Section 376 of IPC or Section 6 of the POCSO Act do not find mention among the offences specified under Section 82(4) of Cr.P.C.

23. In light of the settled legal position, and the decision in *Sanjay Bhandari* (supra), the impugned order dated 12.10.2023, which declared the petitioner a ‘*proclaimed offender*’ is set aside/modified to the extent that the petitioner be declared as a ‘***proclaimed person***’.

24. However, this modification shall not interfere with any action taken or liable to be taken against the petitioner, for failure to appear in pursuance of the proclamation issued under Section 82 of Cr.P.C., as a *proclaimed person*.



2026:DHC:2820



25. In above terms, the present petition alongwith pending application is disposed of.

26. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 04, 2026/
TD/rb