

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-33269 of 2015

Date of Decision: October 13, 2015

Sukhdev Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sarabjeet Singh Randhawa, Advocate
for the petitioner.

Mr.Simsi Dhir Malhotra, Deputy Advocate General, Punjab
for the respondent-State.

Mr.Gagandeep Singh Sirphikhi, Advocate
for the complainant.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 438 Cr.P.C.
for grant of anticipatory bail in case FIR No.107 dated 04.11.2009
under Section 498-A IPC, registered at Police Station Qadian, District
Batala.

Notice of motion was issued and learned State counsel as
well as learned counsel for the complainant appeared and contested
the petition.

I have heard learned counsel for the parties as well as
learned State counsel and have gone through the record.

From the record, I find that present petitioner is father-in-

law of complainant Gurjit Kaur. Even in the FIR, the address of present petitioner has been given of foreign country at that time. Learned counsel for the petitioner argued that petitioner was not personally served ever and he was declared proclaimed offender as he was residing in foreign country. He further argued that even the police on enquiry, found the FIR as false but challan has already been presented. Though report under Section 173(8) Cr.P.C. has been prepared but it has not been filed so far in the Court.

At the time of arguments, learned State counsel filed the status report and also argued that during the enquiry, the allegations of the FIR are found false and the report under Section 173(8) Cr.P.C. is yet to be submitted before the trial Court.

Keeping in view the facts and circumstances of the present case and in view of the fact that FIR is only under Section 498-A IPC and police, after enquiry, has given the report in favour of present petitioner, I find that the petitioner is not required for any interrogation or investigation purposes. Even though the petitioner has been declared as proclaimed offender but in view of the facts and circumstances of the present case, I find it a fit case where petitioner is entitled to benefit of anticipatory bail.

Learned counsel for the complainant cited judgment passed by the Hon'ble Supreme Court in State of **Madhya Pradesh vs. Pradeep Sharma, 2014(1) RCR (Criminal) 269**. I have gone through this cited judgment. In that case, the Hon'ble Supreme Court has held that normally when the accused is absconding and declared

as a proclaimed offender, there is no question of granting anticipatory bail but in the present case, the petitioner is entitled to anticipatory bail as at the time of registration of the FIR, he was residing in foreign country and he was never personally served in the proclamation proceedings, as argued and further the enquiry report given by the police officer is already in favour of the petitioner and learned State counsel has also filed the reply by stating that during enquiry, the averments of the FIR were found false.

In view of these circumstances, the anticipatory bail cannot be rejected on the ground that present petitioner has been declared proclaimed offender.

Keeping in view the facts and circumstances of the present case, without discussing the facts in minute detail and without expressing any opinion on the merits of the case, I find it a fit case where petitioner is entitled to benefit of anticipatory bail. It is ordered that, in the event of arrest, the petitioner be released on anticipatory bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

October 13, 2015
Vgulati

(INDERJIT SINGH)
JUDGE