

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

CRM-M-6801-2015

Date of decision: 16.7.2015

Malkiat Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Vijay Rana, Advocate for the petitioner

SNEH PRASHAR, J.

The present petition under Section 482 of the Code of Criminal Procedure has been filed for grant of anticipatory bail to the petitioner in case First Information Report No.138 dated 6.11.2000 registered under Sections 467, 468, 471, 205, 207, 192, 34 of the Indian Penal Code at Police Station Balachaur, District Nawanshahar.

The submissions made by learned counsel for the petitioner have been heard.

It was submitted on behalf of the petitioner that the petitioner has been falsely implicated in the present case. The occurrence took place on 21.8.1997, whereas the First Information Report was lodged on 6.11.2000, after a delay of more than three years. As per the First Information Report the only allegation against the petitioner was that he identified Malkiat Singh, in whose favour the truck was got

released by Sub Divisional Judicial Magistrate, Balachaur. However, he had never appeared before the trial Court to identify any person, who impersonated himself as Malkiat Singh. Co-accused Narinder Pal Singh, against whom the challan was presented was acquitted by the learned trial Court vide judgment dated 7.12.2011. No summons issued by the Court were ever served upon him and he was wrongly and illegally declared as proclaimed offender.

As per the First Information Report, the allegation against the petitioner is that he identified a person, who impersonated himself as Malkiat Singh son of Munsha Singh for release of the truck on superdari, which was impounded by the police in case First Information Report No.80 dated 14.8.1997 registered under Sections 279, 304-A of the Indian Penal Code at Police Station Balachaur. The petitioner was granted the concession of anticipatory bail. After investigation final report/ challan was presented by the police against three persons namely Narinder Pal Singh, Paramjit Singh and the present petitioner. Paramjit Singh expired during the pendency of the trial whereas Narinder Pal Singh was acquitted by the learned trial Court. In his order dated 7.4.2003, learned JMJC has specifically mentioned that the proclamation under Section 82 Cr.P.C. was duly published qua petitioner and despite that he did not appear. It was after the elapse of the statutory period of 30 days, the petitioner was declared proclaimed offender.

Earlier on the same facts, the petitioner had filed CRM-29790-2012, which was dismissed as withdrawn on 21.11.2012.

However, the petitioner was given liberty that if he surrenders before

learned trial Court and moves an application for grant of bail, the same shall be decided within one week. Despite that the petitioner did not surrender and remained silent for a long period. Perusal of the power of attorney attached with the file shows that the petitioner had shifted to Canada.

In **Jasbir Singh vs. State of Punjab 2002(4) Recent Criminal Reports (Crl.) 299**, this Court had held as under:-

“5. The fundamentals on which a criminal justice system is based is that the persons who have committed the crime and against whom accusations appear to be well-founded during investigation of the case, must face trial. The person who absconds, escapes and keeps himself away from the arms of law cannot be given undue benefit or advantage or permitted to defeat the law in this manner. One cannot ignore that an absconder intentionally makes himself inaccessible to the process of law. If the prayer of the petitioners- accused is accepted, that would tantamount to rendering the criminal justice system at the whims and mercy of the absconding accused. That can never be the intention of law. Therefore, the statements of the witnesses recorded during trial of the case against the accused, cannot be taken into consideration because of the limitation laid down in Section 299 of the Code. It would be pre-mature to presume that the witnesses to be examined against the petitioners -accused would render the same version as was

given by them against the co-accused. Such conclusions would be mere surmises and conjectures which has no support of law. Moreover, whatever delay has occurred, that is attributable to the accused themselves and they cannot be permitted to escape trial of the case on this count.

6. For invoking the jurisdiction of the Court under Section 482 of the Code, there are well settled para-meters. The Court will intervene only if on facts, it is made out that the process of law is being misused or would result in miscarriage of justice.”

In the case in hand, the petitioner had remained absconder. He never appeared before the trial Court after getting bail and without permission of the Court, he left the country. At every step he violated the orders of the Court. After obtaining the concession of anticipatory bail he never appeared before the trial Court. Subsequently on being given liberty to appear before the trial Court and move an application for bail, he intentionally did not do so.

In the aforesaid facts and circumstances, no case for quashing of First Information Report in question is made out and the present petition being devoid of any merit is dismissed.

16.7.2015
gsv

(SNEH PRASHAR)
JUDGE