

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

CRM-M No. 28609 of 2016 (O&M)

Date of decision: 22.08.2016

Ranvir Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Sarju Puri, Advocate for the petitioner.

Jitendra Chauhan, J. (Oral)

By filing the present petition under Section 438 of the Code of Criminal Procedure, the petitioner has sought anticipatory bail in case FIR No.147, dated 11.09.2003, registered under Sections 323, 324, 326 and 341 IPC, at Police Station Balachaur, District Nawanshahar (SBS Nagar).

The learned counsel states that co-accused, Jaswinder Singh @ Reda, Narinder Singh @ Shindi and Parminder Singh, have already been acquitted by the trial Court, vide judgment dated 30.04.2009 (Annexure P-2). He further states that a compromise has also been effected between the parties.

Heard.

The petitioner was declared proclaimed offender on

18.12.2004. The main accused Kulwaran Singh who was declared proclaimed offender has not yet been arrested. In **State of Madhya Pradesh Vs. Pradeep** Sharma, 2014(1) RCR (Criminal) 269, Hon'ble the Supreme Court has held as under:-

“It is clear from the above decision that if anyone is declared as an absconder/proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail. In the case on hand, a perusal of the materials i.e., confessional statements of Sanjay Namdev, Pawan Kumar @ Ravi and Vijay @ Monu Brahambhatt reveals that the respondents administered poisonous substance to the deceased. Further, the statements of witnesses that were recorded and the report of the Department of Forensic Medicine & Toxicology Government Medical College & Hospital, Nagpur dated 21.03.2012 have confirmed the existence of poison in milk rabri. Further, it is brought to our notice that warrants were issued on 21.11.2012 for the arrest of the respondents herein. Since they were not available/traceable, a proclamation under Section 82 of the Code was issued on 29.11.2012. The documents (Annexure-P13) produced by the State clearly show that the CJM, Chhindwara, M.P. issued a proclamation requiring the appearance of both the respondents/accused under Section 82 of the Code to answer the complaint on 29.12.2012. All these materials were neither adverted to nor considered by the High Court while granting anticipatory bail and the High Court, without indicating any reason except stating facts and circumstances of the case, granted an order of anticipatory bail to both the accused. It is relevant to point out that both the accused are facing prosecution for offences punishable under Sections 302 and 120B read with Section 34 of IPC. In such serious offences, particularly, the respondents/accused being proclaimed offenders, we are unable to sustain the impugned orders of granting anticipatory bail. The

High Court failed to appreciate that it is a settled position of law that where the accused has been declared as an absconder and has not cooperated with the investigation, he should not be granted anticipatory bail.”

Therefore, keeping in view the above, no case for bail is made out at this stage.

Dismissed.

However, in case the petitioner surrenders before the trial Court within one week from today and files bail application, the same shall be decided expeditiously.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

22.08.2016

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No