

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

CRM No.M-30525 of 2016 (O&M)  
Date of decision: 01.09.2016

Amnavir Singh @ Amna

...Petitioner

Versus

State of Punjab and another

...Respondents

**CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN**

Present: Mr. Vaibhav Sehgal, Advocate for the petitioner.

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**JITENDRA CHAUHAN, J. (Oral)**

**CRM-26826-2016**

CRM is allowed and Annexures P-1 to P-6 (except P-3) are taken on record, subject to all just exceptions.

**Main Case**

By way of present petition filed under Section 438 of the Code of Criminal Procedure, the petitioner has sought anticipatory bail in FIR No.248, dated 30.09.2009, registered under Sections 380, 323 and 341 of the Indian Penal Code (for the 'the IPC'), at Police Station Division No.5, Ludhiana, District Ludhiana.

The learned counsel for the petitioner states that the compromise (Annexure P-3) has been effected between the petitioner and the complainant. The co-accused have already been acquitted by the learned trial Court.

Heard.

The petitioner was declared proclaimed offender by the learned trial Court and in the bail application he had taken the plea that he being a driver by profession remained out of station and he suffered a injury on his leg. However, he has not placed on record any documentary proof in this regard. The petitioner had suppressed the fact that he went abroad and mentioned the wrong facts before the learned trial Court qua his absence.

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.”*

In view of above, no case for pre-arrest bail is made out at this stage. In case of an absconder, the compromise with the complainant is of no consequence. The petitioner, who absconded during trial and misused the concession of bail, is not entitled to any discretionary relief.

Dismissed.

Nothing expressed hereinabove would be taken to be an opinion on merits of the case.

01.09.2016

*ashok*

**(JITENDRA CHAUHAN)**  
**JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No