

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

CRM-M- 38863 of 2016 (O&M)

Date of decision: 05.12.2016

Tajinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Bajaj, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab
assisted by ASI Joginder Pal.

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 FIR No.86, dated 28.04.2016, registered under Sections 406, 420 and 120-B IPC, at Police Station Division No.7, Jalandhar.

It is contended that the petitioner employed as a clerk in the Life Immigration Travel Agency run by co-accused Harwinder Singh. The petitioner never made any promise to the complainant or any other person to send such a person abroad or received any amount from the complainant.

On the other hand, the learned State counsel submits that the petitioner being the employee of co-accused, Harwinder Singh

knew fully well that the main accused had no authority to send the complainant abroad and actively assisted him in furtherance of the crime. She states that there are as many as 57 complaints against the petitioner and co-accused. The petitioner was declared a proclaimed offender on 14.10.2016 and he is involved in seven other similar FIRs.

Heard.

The present FIR was registered on 28.04.2016 and since then the petitioner has evaded his arrest and subsequently he has been declared a proclaimed offender. 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.”

Thus, keeping in view the antecedents and conduct of the petitioner, no case for anticipatory bail is made out, at this stage.

Dismissed.

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

05.12.2016

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(JITENDRA CHAUHAN)
JUDGE

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