

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

CRM-M-6295 of 2016(O&M)

Date of decision : 03.10.2016

Surinder Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rishabh Gupta, Advocate for the petitioner.

Ms. Simsi Dhir Malhotra, DAG, Punjab
assisted by HC Parvijit Singh.

Ms. Harveen Kaur, Advocate for respondent No.2.

JITENDRA CHAUHAN, J. (Oral)

By way of petition under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.'), the petitioner has sought anticipatory bail in complaint case No.249 dated 08.08.2006 filed under Sections 420, 465, 466, 467, 468, 471 and 474 of the Indian Penal Code (for short 'IPC') read with Section 34 IPC.

The learned counsel for the petitioner states that in pursuance of order dated 23.02.2016 passed by this Court, petitioner has joined the investigation.

The learned State counsel as well as learned counsel for respondent No.2 submit that the petitioner went to England without the permission of the Court and vide order dated 06.09.2016 proclamation

proceedings under Section 82 Cr.P.C. were initiated against him. Copies of orders dated 17.08.2016 and 06.09.2016 have been furnished in the Court, are taken on record as Marks 'A' & 'B', respectively.

Heard.

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.”

Though the order dated 23.02.2016 stands complied with, however, vide order dated 06.09.2016, proceedings for declaring the petitioner as proclaimed offender stands initiated as he went abroad without the permission of the Court, in these circumstances, no case for anticipatory bail is made out at this stage.

Dismissed.

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

03.10.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No