

**#37**

**\* IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 12.05.2016*

**+ BAIL APPLN. 969/2016**

**RAJIV GHAKKAR** ..... Applicant

Through **Mr. Gautam Panjwani, Advocate**

versus

**STATE THROUGH NCT OF DELHI** ..... Respondent

Through **Mr. Ashish Dutta, APP for State**  
**SI Pooran Lal Verma, PS Kirti Nagar**

**CORAM:**

**HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

**SIDDHARTH MRIDUL, J (ORAL)**

1. The present application under Section 438 of the Code of Criminal Procedure, 1973 seeks pre-arrest bail in FIR No. 415/2015, under Sections 498A/406 IPC, registered at Police Station- Kirti Nagar, Delhi.

2. In the present case, without going into the merits of the application, it is observed that the applicant, by an order dated 2<sup>nd</sup> November, 2015 passed by the learned MM, Mahila Court, Tis Hazari Courts, Delhi, has been declared as a proclaimed offender on a finding that the applicant has been deliberately avoiding to appear before the Court and evading the process of law.

3. Although I am informed at the bar by Mr. Gautam Panjwani, learned counsel appearing on behalf of the applicant that the order dated 2<sup>nd</sup> November, 2015 has been assailed before the Sessions Court, it is an admitted position that the operation thereof has not been stayed.

4. The Hon'ble Supreme Court of India in *Lavesh vs. State (NCT of Delhi)* reported as (2012) 8 SCC 730, in paragraph 12 of the report observed as follows:-

“12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and declared as “absconder”. Normally, when the accused is “absconding” and declared as a “proclaimed offender”, there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code is not entitled the relief of anticipatory bail.”

5. On a plain reading of the ratio in the above extracted paragraph, it is axiomatic that when an accused is “absconding” and has been declared as a “proclaimed offender”, there can be no question of granting anticipatory bail.

6. The Hon'ble Supreme Court in *Lavesh (supra)* has reiterated unequivocally that when a person against whom a warrant has been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail.

7. In view of the foregoing, the present application seeking anticipatory bail is devoid of merit and is accordingly dismissed.

**MAY 12, 2016**  
**sd**

**SIDDHARTH MRIDUL, J**