

Criminal Misc. M- No. 13678 of 2017 (O&M)

Date of decision : April 27, 2017

Kusum

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.S. Behl, Advocate
for the petitioner.

Mr. Deep Singh, AAG, Punjab.

Mr. Anil Kumar Bhardwaj, Advocate
for the complainant.

LISA GILL, J.

The petitioner seeks quashing of order dated 05.11.2016 passed by the learned Judicial Magistrate First Class, Ludhiana declaring the petitioner to be a proclaimed offender in FIR No. 43 dated 31.05.2016 registered under Sections 304B, 306 IPC at Police Station Daresi, Ludhiana.

It is submitted that the petitioner has been falsely implicated in the above said FIR. She was pursuing her remedies as available to her. The petitioner preferred an application for anticipatory bail before the learned Additional Sessions Judge, Ludhiana. The petitioner's application for anticipatory bail was filed on 15.09.2016. It was declined on 12.10.2016. Thereafter, the petitioner approached this Court for concession of anticipatory bail vide CRM-M No. 39343 of 2014 filed on 03.11.2016. The petitioner was afforded interim relief by this Court on 07.11.2016.

However, giving a complete go by to the prescribed procedure of law, the petitioner was declared a proclaimed offender on 05.11.2016. It is submitted that no notice whatsoever was served upon the petitioner. The pendency of any such proceedings were never brought to the notice of the learned Additional Sessions Judge, Ludhaina when the petitioner's bail application was pending. Learned counsel for the petitioner relies on a decision of this Court in Ashish Gupta versus State of Punjab in CRM No. M-9450 of 2014 decided on 02.08.2014 to submit that once an accused is pursuing his legal remedies, it cannot be said that he is evading arrest.

Learned counsel for the State is unable to deny the fact that the petitioner was indeed pursuing the legal remedies as available to her. The factual position is not denied. Therefore, it cannot be said that she was evading arrest in any manner. It is further not denied that pursuant to order dated 07.11.2016 passed by this Court in CRM-M-39343 of 2016, the petitioner has joined investigation. Therefore, keeping in view the peculiar facts and circumstances of the case, order dated 05.11.2016 is set aside.

This petition is, accordingly, disposed of.

April 27, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No