

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

CRM-M-19200 of 2017 (O&M)
Date of decision : 25.05.2017

Rahish

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Arjun Atri, Advocate for the petitioner.

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.232, dated 14.08.2006, registered under Sections 3/8, 5/8 of Cow Slaughter Act, at Police Station Punhana, District Mewat.

Contents that the impugned order 02.12.2010 was passed without effecting service upon the petitioner. The similarly placed co-accused has been acquitted by the trial Court vide judgment dated 10.03.2017 (Annexure P-2). The petitioner has successfully evaded the process of the Court and he was declared proclaimed offender vide order dated 02.12.2010. The petitioner has selectively chosen to avail benefit of judgment of acquittal granted to co-accused.

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.”

Considering the fact that the petitioner has been deliberately avoiding the process of Court for such a number of years and has not given any adequate explanation in this regard, no case for anticipatory bail is made out.

Dismissed.

However, considering the fact that similarly placed co-accused stands acquitted, it is ordered that in case the petitioner surrenders before the trial Court within 10 days from today and files the bail petition, same shall be decided expeditiously.

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

25.05.2017
ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No