

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 102

Case No. : Crl. Misc. No. M-46072 of 2016 (O&M)

Date of Decision : February 21, 2017

Vikram Passi Petitioner
vs.
State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Divjyot Singh Sandhu, Advocate
for the petitioner.

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DEEPAK SIBAL, J. :

Crl. Misc. No. 5902 of 2017 :

Through this application, Annexures P-6 to P-9 are sought to be placed on record.

Allowed as prayed for.

The application stands disposed of.

Main Case :

The present is the third petition filed by the petitioner under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No. 15 dated 13.02.2007, registered under Sections 307, 171-B, 188, 427, 148, 149 IPC and Sections 25, 54, 59 of the Arms Act, at Police Station Sadar Kapurthala, District Kapurthala.

The FIR, in which the petitioner seeks anticipatory bail was registered in the year 2007, in which at the initial stage, the petitioner, while on bail, before the framing of the charge, had fled from justice by choosing not to appear before the Court.

Ever since, even after the passage of a decade, the petitioner has evaded the process of law.

In the meanwhile, after following the process as prescribed by law, on 06.06.2009, the petitioner was declared a Proclaimed Offender.

In the year 2011, the petitioner filed a petition before this Court seeking anticipatory bail being **Crl. Misc. No. 39399 of 2011 – Vikram Passi vs. State of Punjab**, which was dismissed as withdrawn on 26.12.2011 by passing the following order :-

“Learned counsel for the petitioner states that the petitioner has been declared offender in the year 2009 and is still staying abroad. The present petition has been filed after getting attested the affidavit from abroad.

After arguing for some time, learned counsel for the petitioner wants to withdraw this petition with liberty to the petitioner to file appropriate petition as and when petitioner will come to India.

Dismissed as withdrawn with aforesaid liberty.”

A perusal of the afore-quoted order shows that the counsel for the petitioner, after arguing for some time, sought to withdraw the petitioner

seeking anticipatory bail for the petitioner, with liberty to file an appropriate petition on the petitioner's coming to India.

The Court granted the petitioner this liberty.

Thereafter, the petitioner came to India in the year 2012 and filed two petitions before this Court. **Crl. Misc. No. M-1204 of 2012 – Vikram Passi vs. State of Punjab and another** was filed by him seeking quashing of the FIR, in which, through the present petition, he seeks anticipatory bail and **Crl. Misc. No. M-2200 of 2012 – Vikram Passi vs. State of Punjab** was filed, through which he sought the concession of anticipatory bail.

The petition seeking quashing of the FIR was listed before this Court on 17.01.2012, on which date, this Court while dismissing the same, passed the following order :

“Petitioner-Vikram Passi is seeking quashing of FIR No.15 dated 13.02.2007 under Sections 148/171-B/188/307/427/149 IPC and Sections 27/54/59 of the Arms Act, registered at Police Station (Sadar), District Kapurthala and all subsequent proceedings thereto, on the basis of compromise between the complainant and another co-accused (Annexure P-3).

From the averments made in this petition, admittedly, the petitioner was declared Proclaimed Offender by the trial Court. It has also come on record that the petitioner had filed Criminal Misc.No.M-39399 of 2011, for grant of anticipatory bail which was permitted to be

withdrawn by the petitioner vide order dated 26.12.2011 (Annexure P-2).

It has been specifically mentioned that now the petitioner is in India. However, till date neither the order declaring him as a Proclaimed Offender has been set aside nor he has been granted protection by any competent Court of jurisdiction in India. A petitioner who is a Proclaimed Offender and has not submitted to the jurisdiction of the Court, thus, cannot invoke inherent powers of this Court to seek the quashing of FIR in question.

Thus, keeping in view the aforesaid fact, I find no merit in this petition and the same is dismissed.

Petitioner-Vikram Passi is directed to surrender before the Chief Judicial Magistrate, Kapurthala, forthwith.

At this stage, at the asking of the Court, Sh.P.S.Paul, Deputy Advocate General, Punjab, accepts notice on behalf of the respondent-State.

In case, the petitioner-Vikram Passi does not surrender, Superintendent of Police, Kapurthala, shall take the petitioner in custody and produce him before the competent Court of jurisdiction, for taking further action in accordance with law.

A copy of this order be given to the learned State Counsel under the signatures of the Bench Secretary. [Emphasis supplied]”

A perusal of the afore-quoted order shows that not only the quashing petition of the petitioner was dismissed on the ground that he had been declared a Proclaimed Offender, on a statement made by his counsel to the effect that the petitioner was in India, he was directed to surrender before the Chief Judicial Magistrate, Kapurthala forthwith, with a further direction that in case, he did not surrender, Superintendent of Police, Kapurthala would take the petitioner in custody and produce him before the competent court of jurisdiction for taking further action in accordance with law.

The petition seeking anticipatory bail being **Crl. Misc. No. M-2200 of 2012 – Vikram Passi vs. State of Punjab** came up for hearing before this Court on 25.01.2012, which after arguing for some time, was withdrawn by learned counsel for the petitioner with liberty to surrender before the trial court within 15 days, with a further prayer that as and when application for regular bail was moved by the petitioner before the appropriate Court, the same shall be decided within a week thereafter. Graciously, this Court granted the petitioner this liberty as well.

Learned counsel for the petitioner does not dispute that the petitioner, for over five years after the passing of the direction by this Court on 17.01.2012, did not surrender before the authorities and rather fled this country. This was in spite of the fact that on his prayer, through order dated 25.01.2012, this Court had granted him liberty to move an application for regular bail before the appropriate Court, with a further liberty that the same

would be decided within a week thereafter.

The afore-referred facts portray the petitioner's complete disregard for the process of law. It has been about a decade when the petitioner, by misusing the concession of bail, had fled from this country. It has been over 7½ years since he has been declared a Proclaimed Offender and over 05 years since the petitioner, in total disregard of the directions given by this Court, has not surrendered but fled to the U.S.

He has willfully and defiantly evaded the process of law.

Before parting with the order, I direct the Senior Superintendent of Police, Kapurthala to file his own affidavit with regard to the steps taken by the District Police at Kapurthala in compliance with the orders of this Court dated 17.01.2012. The Court would also be informed with regard to the steps taken by the District Police to nab the petitioner on his landing in this country. The affidavit be filed within two weeks.

In view of the above facts, finding no merit in the present petition, the same is hereby ordered to be dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

February 21, 2017
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Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.