

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case (A) No.667 of 2018

Bhupendra Singh Thakur, S/o Paharu Ram, aged about 38 years, R/o Behind Dharm Hospital, Jail Para, Sarangarh, District Raigarh (C.G.)

---- Applicant

Versus

1. State of Chhattisgarh, Through the District Magistrate, Korba (C.G.)
2. Station House Officer, Police Station City Kotwali (Chowki Rampur), Korba (C.G.)

Note : In the said crime, the trial has been concluded and as such the District Magistrate has been impleaded as a party in the bail rejection order.

---- Non-applicants

For Applicant:	Mr. B.D. Guru, Advocate.
For Non-applicants:	Mr. Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

06/08/2018

1. Apprehending arrest in connection with Crime No.346/1996, registered at Police Station City Kotwali, Chowki Rampur, Korba, for the offence punishable under Sections 457 and 380 of the IPC, the applicant has filed this application under Section 438 of the CrPC for grant of anticipatory bail.
2. Case of the prosecution, in brief, is that the applicant along with other co-accused persons is alleged to have purchased the stolen property and thereby committed the offence.
3. Learned counsel for the applicant submits that other accused persons have already been acquitted, therefore, it is a fit case where anticipatory bail should be granted to the applicant.
4. Learned State counsel opposes the application and submits that the applicant remained absconded since 24-1-2006.

5. The Supreme Court in the matter of Lavesh v. State (NCT of Delhi)¹ has clearly held that an absconder accused or the proclaimed offender is not entitled for anticipatory bail and observed as under: -

“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 for the relief of anticipatory bail.”

6. In the matter of State of Madhya Pradesh v. Pradeep Sharma², Their Lordships of the Supreme Court reiterating the principle laid down in Lavesh (supra) and following the said decision have held that if anyone is declared as an absconder / proclaimed offender in terms of Section 82 of the Code, he is not entitled for anticipatory bail by observing as under: -

“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 co-operated with the investigation, he should not be granted anticipatory bail.”

7. Reverting to the facts of the present case, the applicant remained absconded from the Court since 24-1-2006. Bearing in mind the principle of law laid down in Lavesh (supra) and Pradeep Sharma's case (supra), it would appear that the absconder or the proclaimed offender, who is concealing himself in order to avoid execution of warrant, is not entitled for the privilege of anticipatory bail. The applicant is absconding since 24-1-2006 and merely because other co-accused persons have been acquitted is not a ground to grant anticipatory bail. The application is accordingly, rejected.

Sd/-
(Sanjay K. Agrawal)
Judge

1 2012(8) SCC 730

2 AIR 2014 SC 626