

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

CRM-M-46963 of 2018.
Decided on:-October 25, 2018.

Madan Gopal.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Sunil Kumar, Advocate
for the petitioner.

HARI PAL VERMA, J. (ORAL)

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in FIR No.126 dated 27.06.2006 under Sections 279, 337 and 338 IPC registered at Police Station Shimlapuri, District Ludhiana.

Learned counsel for the petitioner states that the petitioner was attending the trial Court regularly and it was only on 15.04.2009, the petitioner stopped appearing before the trial Court for the reason that no prosecution evidence was led. The factum of order dated 01.03.2012 vide which the petitioner was declared as proclaimed offender, was not in his notice as the police had never visited him.

Notice of motion.

On asking of the Court, Mr. Rana Harjasdeep Singh, Deputy Advocate General, Punjab accepts notice on behalf of the respondent-State.

On the specific question put to the counsel for the petitioner about the maintainability of the present petition under Section 438 Cr.PC for anticipatory bail when the petitioner has been declared a proclaimed offender, the counsel has not been able to convince this Court.

The FIR in question was registered on 26.07.2006 and it was only on 15.04.2009, the petitioner was absent for the first time. Thus, it is but presumed that the petitioner had otherwise been attending the trial Court before 15.04.2009. But since the petitioner was declared a proclaimed offender, this Court finds that the present petition under Section 438 Cr.PC is not maintainable.

However, considering the nature of offence, the present petition is disposed of with a direction that in case the petitioner surrenders before the trial Court within a period of ten days from today and moves an application for grant of regular bail, he shall be admitted on bail on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court.

October 25, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No