

101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15939 of 2020

Date of Decision : 28.10.2020

Ajay Kumar

...Petitioner

Versus

State of Punjab

...Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Karan Padam, Advocate and
Mr. Chandan Singh Rana, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

Harsimran Singh Sethi, J. (Oral)

Affidavit filed by the learned State counsel is taken on record.

Present is a second petition filed under Section 438 Cr.P.C. for the grant of anticipatory bail to the petitioner in respect of FIR No. 231 dated 28.6.2018 under Sections 302 and 120-B of IPC and Sections 25/27 of the Arms Act, 1959 registered at Police Station Jodhewal, District Ludhiana.

Learned counsel for the petitioner argues that the petitioner was not named in the FIR and he has wrongly been roped in on the basis of the statement of the co-accused, from which statement, the said co-accused had later on resiled. Learned counsel for the petitioner submits that though, the petitioner was declined the benefit of anticipatory bail on an earlier occasion in the year 2019 but, as he is yet to be arrested, he be granted the benefit of anticipatory bail.

Mr. Sandeep Singh Deol, DAG, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition submits that the petitioner had approached this Court for the grant of anticipatory bail by filing CRM-M-42573 of 2018 and the petitioner was initially granted the benefit of interim bail by this Court but later on the said petition was dismissed. Learned State counsel further submits that the petitioner is evading arrest for the last about two years after his petition for the grant of anticipatory bail was dismissed. Learned State counsel further submits that in the interregnum, the petitioner was also declared proclaimed offender but, the said order was set aside by this Court on technicalities as the order declaring the petitioner as proclaimed offender was passed before the expiry of 30 days of the proclamation issued. Learned State counsel submits that all the efforts have been made to arrest the petitioner but, he is evading the same.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, the petitioner is evading his arrest for the last more than two and a half years. Even though, the first anticipatory bail application filed by the petitioner was dismissed in November, 2018, the petitioner did not surrender kept on evading the arrest and was also declared a proclaimed offender. Though, the order declaring the petitioner as proclaimed offender was set aside by this Court on technicalities but, the fact remains that the petitioner is evading law even after the prayer for anticipatory bail was rejected in November, 2018. The only argument raised by the learned counsel for the petitioner is that a statement has been made by one of the co-accused, which is being interpreted by the petitioner to

mean that he is innocent. Innocence of the petitioner is yet to be proved before the competent Court of law. The conduct of the petitioner is such that he is evading arrest for the last more than two and a half years and his custodial interrogation is necessary to find out the source of weapon, which has been used in the said incident, wherein a person lost his life.

In view of the above, no ground is made out to grant the benefit of anticipatory bail to the petitioner.

Dismissed.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

Before parting with the order, the inefficiency of the police is needed to be commented upon. For the last two years, the petitioner is evading his arrest and the concerned police authority in the affidavit has only mentioned that the efforts were made to arrest the petitioner, which were to no avail, without disclosing those efforts, whereas petitioner on one hand is evading arrest and on the other hand successfully challenged the order declaring him proclaimed offender and has now filed second petition for the grant of anticipatory bail after a period of two years of rejection of his first anticipatory bail application. This averment that efforts were made to arrest the petitioner, prima facie, does not seem to be genuine.

Let copy of this order be sent to the Director General of Police, Punjab for his information and necessary action.

October 28, 2020

aarti/naresh k.

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No