

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

CRM-M-27900 of 2020.

Decided on:- September 24, 2020.

Ravindra and another

.....Petitioners.

Versus

State of Haryana.

.....Respondent.

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

Present:- Dr. Sushil Gautam, Advocate
for the petitioners.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

HARI PAL VERMA, J.

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

The petitioners have filed this petition under Section 438 read with Section 482 Cr.P.C. so as to grant pre-arrest bail in FIR No.236 dated 02.09.2020 under Section 306 read with Section 34 IPC registered at Police Station Dadri Sadar, District Charkhi Dadri.

On 15.09.2020, when this petition was taken up for hearing through video conferencing due to outbreak of COVID-19, learned counsel for the petitioners had submitted that the petitioners could not avail the remedy to invoke the jurisdiction of the Court of Session as the facility of video conferencing is not available.

Today, Ms. Gaganpreet Kaur, learned State counsel has informed this Court that the petitioners have not approached this Court with clean hands. Apart from the fact that the facility of video conferencing is available before the Court of Session, even in certain urgent cases, the lawyers are physically appearing as well.

When this Court has put a specific query as to why the petitioners have not availed the relief claimed in the present petition before the Court of Session, learned counsel for the petitioners has insisted that this Court has also the concurrent jurisdiction to entertain the petition under Section 438 Cr.P.C. i.e. for grant of anticipatory bail.

No doubt, as per the provision of Section 438 Cr.P.C., when any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this Section. Therefore, though the petitioners are not required to first approach the Sessions Court before applying to this Court for grant of anticipatory bail, but while approaching straightway to this Court, they must show some strong, cogent, compelling and special circumstances, so as to invoke the jurisdiction of this Court without exhausting the remedy available to them before the Court of Session.

The plea of the petitioners that they belong to Ghaziabad (UP) and they have an apprehension in their mind that they may be arrested by the local police, in case they seek the relief of anticipatory bail before the Court of Session at Charkhi Dadri, cannot be accepted particularly when the personal presence of the petitioners is not required before the Court of Session while applying the anticipatory bail.

Therefore, having heard learned counsel for the parties, this Court finds that the petitioners have failed to make out a case, so as to establish some strong, cogent, compelling and special circumstances, enabling them to invoke the jurisdiction of this Court without exhausting the remedy of filing such petition before the Court of Session.

Moreover, on 15.09.2020, when this case was taken up for hearing, learned counsel for the petitioners did not apprise this Court correctly as the facility of video conferencing is already available in the Court of Session in addition to the physical appearance of the lawyers.

Thus, for not apprising this Court correctly, the present petition is required to be dismissed outrightly with exemplary costs, but considering the fact that the petitioners should not suffer for such statement, the present petition is dismissed at this stage leaving it open to the petitioners to approach the Court of Session for the relief claimed in the present petition.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case in any manner.

September 24, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No