

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-38838-2020 (O&M)

Date of Decision: 22.12.2020

Imam Hussain and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. L. S. Lakhanpal, Advocate
for the petitioners.

Ms. Bhavna Gupta, Addl. A. G., Punjab.

JAISHREE THAKUR, J. (Oral)

CRM-31331-2020

Application is allowed.

Document i.e. Annexure P-4 is taken on record .

CRM-M-38838-2020

The instant petition has been filed under Section 438 of Cr.P.C., for grant of anticipatory bail to the petitioners in the event of arrest in FIR No. 44 dated 24.04.2016 under Sections 363, 366-A, 376-D of the Indian Penal Code, registered at Police Station Bhogpur, District Jalandhar.

Learned counsel for the petitioners would contend that the petitioners have been falsely implicated in the aforesaid FIR and were granted concession of anticipatory bail by the High Court in CRM-M-28321-2016 decided on 09.11.2017. It is further submitted that they had been appearing regularly before the trial Court on the dates fixed, however,

on one date, they were mis-informed by their counsel in the trial Court that they were in all likelihood to be acquitted. With this information, they stopped appearing before the trial Court and thus were marked absent. After being served through non-bailable warrants of arrest, they were declared proclaimed offenders. It is further contended that there was no plausible reason as to why the petitioners would not put in appearance once anticipatory bail had been allowed to them. Learned counsel further contends that the statement of the prosecutrix has already been recorded in which she has not supported the version of the prosecution, therefore, their custody during trial would serve no purpose and that they are ready and willing to face the trial.

Notice of motion.

Ms. Bhavna Gupta, Addl. A. G., Punjab appearing through the medium of video conferencing accepts notice on behalf of the respondent-State and argues that the petitioners herein had been declared proclaimed offenders by the trial Court on 07.02.2020, after various attempts having been made to secure their presence and even non-bailable warrants were issued which were unexecuted.

I have heard learned counsel for the parties and have also given careful consideration to the arguments.

Undisputedly, the petitioners had been allowed anticipatory bail by this Court but as noted by the Court below in order dated 18.07.2020, they failed to put in appearance during trial and warrants of arrest were unexecuted. Though learned counsel for the petitioners contends that the prosecutrix has already turned hostile and did not support the version of the

prosecution, however, taking in view the judgment rendered by the Apex Court in '*State of M.P. v. Pradeep Sharma*' (2014) 2 SCC 171, wherein it has been categorically held that concession of anticipatory bail ought not to be allowed to a person who has been declared as proclaimed offender, this Court deems it appropriate to direct the petitioners herein to surrender before the trial Court within a period of one week from the date of receipt of certified copy of this order and move appropriate application for bail. In case they comply with the aforesaid directions their application for bail may be considered on the date so filed.

With the above said observations, the present petition stands disposed of.

22.12.2020
seema

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No

