

CRM-M-4472-2021

Date of Decision: 08.03.2021.

Rakesh Kumar

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice B.S. Walia.

Present: Mr. Rahul Rathore, Advocate for the petitioner.

Mr. Vivek Chauhan, Addl. A.G., Haryana.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the petition under Section 438 Cr.P.C., is for grant of anticipatory bail to the petitioner, in case FIR No.465 dated 10.10.2019, registered under Sections 148, 149, 323, 325, 302, 307, 379-B, 427, 506, 120-B of IPC, 1860, Police Station Sadar Thanesar, District Kurukshetra, on the ground that the petitioner has been implicated in the aforementioned FIR on false allegations and has no role whatsoever in the commission of the offence.

3. At the outset, Mr. Vivek Chauhan, Addl. A.G. Haryana, has brought it to the notice of the Court that vide order dated 25.02.2021, the petitioner was declared a proclaimed offender under Section 82 Cr.P.C. and that in view of well settled law, a proclaimed offender is not entitled to grant of pre-arrest bail. Reference in this connection can be made to the decision of Hon'ble the Supreme Court in Lavesh Vs. NCT, Delhi, 2013 (4) RCR Criminal 240. Relevant extract of the same is reproduced

below:-

“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 the relief of anticipatory bail.”

4. Faced with the aforementioned situation, learned counsel for the petitioner prays for permission to withdraw the instant petition with liberty to take out appropriate proceedings before the learned trial Court in accordance with law.

5. In view of the position as noted above as well as statement of learned counsel for the petitioner, the petition under Section 438 Cr.P.C. is dismissed as withdrawn with the liberty as prayed for.

(B.S. Walia)
Judge

08.03.2021.

'Rajesh'

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No