

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

CRM-M-7706-2021 (O&M)

Date of Decision: 18.02.2021

(Heard through VC)

Naresh Kumar @ Naresh Goyal

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Deepak Aggarwal, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 438 of Cr.P.C., for grant of anticipatory bail to the petitioner in complaint case bearing No.67 dated 25.07.2013 under Section 138 of Negotiable Instrument Act, 1881 filed before JMIC, Kharar, District SAS Nagar, Mohali.

Learned counsel for the petitioner herein would contend that an FIR bearing No.40 dated 19.06.2014 under Sections 406/420/120-B was registered at Police Station Mullanpur Garibdass, District SAS Nagar, Mohali. On the same set of allegations, earlier a criminal complaint was also filed bearing No.67 dated 25.07.2013 under Section 138 of the Negotiable Instruments Act, before JMIC, Kharar. Counsel for the petitioner further contend that in both cases he was declared as a proclaimed offender and he came to be arrested under the said FIR on 24.02.2020 and he was sent to judicial custody where he

remained for about 3 months. He was eventually allowed regular bail by the Additional Sessions Judge, Mohali by an order dated 12.05.2020, however, he was not arrested under this complaint Case. Counsel would contend that since he has already undergone 03 months custody for the same offence under the FIR, he is entitled to bail under the said complaint case.

Notice of motion to the official respondent only.

Ms. Rashmi Attri, A.A.G., Punjab, appearing through the medium of video conferencing accepts notice on behalf of the respondent-State and opposes the grant of anticipatory bail by relying upon a judgment rendered by the Supreme Court in '***State of M.P. v. Pradeep Sharma' (2014) 2 SCC 171***, and argues that the petitioner herein had been declared as proclaimed offender by the Court below and, therefore, cannot be granted the relief of anticipatory bail.

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

Undisputedly, the petitioner remained in custody in police case registered at the instance of complainant on same set of allegations. However, keeping in view the judgment rendered by the Apex Court in '***State of M.P. v. Pradeep Sharma' (2014) 2 SCC 171***, it is directed that he would put in appearance in the complaint case before the trial Court within a period of ten days from today and move an application for bail and for having having the order declaring him proclaimed offender set aside which will be considered on the same date itself. In the meanwhile, limited to allowing the petitioner to move an appropriate application, his arrest is stayed.

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

In case the petitioner fails to comply the aforesaid directions, the interim relief granted shall cease to exist.

18.02.2021
ps-I

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No