

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

CRM-M-10092-2021

Date of decision:-22.4.2021

Gurmit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Rahul Bhargava Advocate
for the petitioners.

H.S. MADAAN, J.(ORAL)

Case taken up through video conferencing.

Petitioner Gurmit Singh, aged 50 years, resident of village Nadohar, PS Harike, District Taran taran, at present resident of 11928, Chalmers Place, Delta, BC V4C, IL4, Canada, who had been declared a proclaimed offender by the Court of Judicial Magistrate Ist Class, Jalandhar vide order dated 25.2.2015, has filed the present petition under Section 438 Cr.P.C. seeking grant of anticipatory bail. Various grounds have been taken in the petition in an attempt to make out a case that petitioner was not aware of the pendency of the proceedings against him as he was residing in Canada and he was wrongly declared a proclaimed offender by the Court of Judicial Magistrate Ist Class, Jalandhar.

The law is well settled that an absconder is not entitled to pre-arrest bail. In terms of the ratio of the authority *State of Madhya Pradesh Versus Pradeep Sharma, 2014(1) R.C.R.(Criminal) 269*, that when an accused had absconded and declared as a proclaimed offender in terms of Section 82 Cr.P.C., he is not entitled to pre arrest bail.

Furthermore, the petitioner is presently residing in Canada as is suggested by his address given in the heading of the petition. The petitioner presently residing in Canada cannot possibly apprehend danger of his arrest in the case and furthermore he without surrendering himself to the jurisdiction of the Courts in India has filed the present petition in an attempt to have the proceedings by remote control and to ensure protection for him before he arrives in India. Such type of tactics are uncalled for.

Even otherwise, the petitioner instead of approaching the Court of Magistrate apprising it of all the facts and circumstances and seeking setting aside of order declaring him proclaimed offender and for grant of pre-arrest bail, has chosen to by bye-pass the said Court and seek anticipatory bail firstly by approaching the Court of Sessions and then this Court.

In *Mehnga Singh Versus State of Punjab, 2002(2) R.C.R.(Criminal) 501*, it has been observed that when an accused has been declared as a proclaimed offender, a petition against the order under Section 482 Cr.P.C. is not maintainable and that the accused should first move the Court which declared him proclaimed offender and even an objection against validity of proclamation is required to be raised in the first instance before the Court which issued the

proclamation and that power under Section 482 Cr.P.C. is not to be exercised in favour of a person, who is absconding or avoiding service.

As regards the judgments *Pardeep Kaur Versus State of Punjab and another, 2019(3) RCR(Criminal)775, Amandeep Arora Versus State of Punjab passed in CRM-M-22262 of 2019 and Rajesh Kumar @ Billa Versus State of Punjab, 2019(3) RCR(Criminal)351,* referred to by learned counsel for the petitioner, those do not help the petitioner in any manner, as the observations made while deciding a petition for bail can certainly be not binding precedent since facts of each case are different, so is the context in which such observations are made.

Therefore, the petition stands dismissed.

22.4.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No