

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

**CRM-M-8776-2020
DECIDED ON:16th SEPTEMBER, 2021**

NEETU JAIN AND ANOTHER

.....PETITIONERS

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. ADS Sukhija, Advocate for the petitioners.

Ms. Monika Jalota, DAG, Punjab.

AVNEESH JHINGAN, J (ORAL)

[1] This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in case FIR No. 44, dated 5th April, 2018, under Sections 406, 420 and 120-B IPC (Sections 409, 467, 468 IPC and Section 13(1)(d) read with 13(2) Prevention of Corruption Act, 1988 added later on), registered at Police Station Jandiala, District Amritsar.

[2] From the pleadings it is forthcoming that the petitioners were declared Proclaimed Offenders way back on 4th June, 2019.

[3] Learned State counsel submits that the petitioners are absconding for the almost more than two years.

[4] The Supreme Court in **State of Madhya Pradesh Vs. Pardeep Sharma; 2014 AIR (SC) 626** has held as under under:

“It is clear from the above decision that if anyone is declared as an absconder/proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail. In

the case on hand, a perusal of the materials i.e., confessional statements of Sanjay Namdev, Pawan Kumar @ Ravi and Vijay @ Monu Brahambhatt reveals that the respondents administered poisonous substance to the deceased. Further, the statements of witnesses that were recorded and the report of the Department of Forensic Medicine & Toxicology Government Medical College & Hospital, Nagpur dated 21.03.2012 have confirmed the existence of poison in milk rabri. Further, it is brought to our notice that warrants were issued on 21.11.2012 for the arrest of the respondents herein. Since they were not available/traceable, a proclamation under Section 82 of the Code was issued on 29.11.2012. The documents (Annexure-P13) produced by the State clearly show that the CJM, Chhindwara, M.P. issued a proclamation requiring the appearance of both the respondents/accused under Section 82 of the Code to answer the complaint on 29.12.2012. All these materials were neither adverted to nor considered by the High Court while granting anticipatory bail and the High Court, without indicating any reason except stating “facts and circumstances of the case”, granted an order of anticipatory bail to both the accused. It is relevant to point out that both the accused are facing prosecution for offences punishable under Sections 302 and 120-B read with Section 34 of IPC. In such serious offences, particularly, the respondents/accused being proclaimed offenders, we are unable to sustain the impugned orders of granting anticipatory bail. The High Court failed to appreciate that it is a settled position of law that where the accused has been declared as an absconder and has not cooperated with the investigation, he should not be granted anticipatory bail. “

[5] The Supreme Court in Lavesh vs. State (NCT of Delhi); **2012(8) SCC 730**, has held as under:

“9. By placing the relevant materials and two status

reports submitted by the police, Mr. Sidharth Luthra, learned ASG submitted that the appellant was a Proclaimed Offender. To this effect, Mr. V. Ranganathan, Additional Commissioner of Police, West District, New Delhi, in his counter affidavit, filed in this Court on 25.06.2012, has stated that, "Efforts were made to arrest the petitioner but he absconded as such he was got declared a Proclaimed Offender. The case is pending trial." The same has been reiterated in the status report filed by Mr. Virender Dalal, Station House Officer, P.S. Punjabi Bagh, New Delhi, before the High Court.

10. 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."

[6] Considering the afore-said decisions of the Supreme Court and the fact that the petitioners were declared Proclaimed Offenders, no ground is made for grant of anticipatory bail.

[7] The present petition is dismissed.

(AVNEESH JHINGAN)
JUDGE

16th SEPTEMBER, 2021
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No