

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

**CRM-M-13097-2021(O&M)
Date of decision:-6.4.2021**

Asgar

...Petitioner

Versus

State of Haryana

...Respondent

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

Present : Mr.Afzal Hussain, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Asgar, aged about 38 years, resident of village Puthali (Maroda), Police Station Nagina, District Nuh, Haryana, who had been granted regular bail and had been appearing in the trial Court. Subsequently, he did not appear in the trial Court and moved an application for exemption from personal appearance, which was allowed. He did not put in appearance in the trial Court on the adjourned date and again moved a similar application, which was however dismissed and ultimately he was declared a proclaimed offender on 10.6.2020. In that way, he is an absconder. Instead of surrendering in the trial Court and moving application for regular bail, he is trying to bypass the said Court and get direction issued to the Court in question that on his appearance, he be released on pre-arrest bail.

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*, 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.

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 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.

Therefore, the petition stands dismissed being not maintainable.

However, petitioner is directed to surrender in the trial Court within a period of 7 days from today and in event of his doing so and moving application for regular bail, the same be disposed of by the trial Court expeditiously.

(H.S.MADAAN)
JUDGE

6.4.2021
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No