

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

CRM-M-19008-2021

Date of decision:-13.7.2021

Bijay Singh

...Petitioner

Versus

Baldev Raj Chhabra

...Respondent

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

Present : Mr.K.S. Bal, Advocate
for the petitioner.

Mr.Rajinder Singh, Advocate
for the respondent.

H.S. MADAAN, J.(ORAL)

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. read with Section 482 Cr.P.C. for pre-arrest bail has been filed by the petitioner Bijay Singh, aged 60 years, resident of Flat No.1, Colony Darbar Sahib, New Tehsilpura, Amritsar, an accused in a criminal complaint filed by complainant Baldev Raj Chhabra against him for the offence under Section 138 of Negotiable Instruments Act, pending before Sub Divisional Judicial Magistrate, Abohar, District Fazilka, wherein petitioner/accused has been declared a proclaimed offender vide order

dated 10.3.2021.

At the very outset, it may be stated that this petition is not maintainable and is doomed for failure.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

The law on the subject is very clear that a proclaimed offender is not entitled to grant of pre-arrest bail. In **State of Madhya Pradesh Versus Pradeep Sharma, 2014(1) R.C.R.(Criminal) 269**, Hon'ble Apex Court has categorically observed 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.

This very view was earlier taken in another judgment by the Apex Court i.e. **Jagtar Singh Versus Satendra Kaur @ Bhavana Grover & Ors, 2002 Cri. L.R.(SC) 807**, wherein it was observed that normally when accused are absconding, there is no question of granting anticipatory or regular bail.

The petitioner having not appeared in the trial Court in response to the process issued and having been declared proclaimed offender vide order dated 10.3.2021, the proper course for him was to appear in the trial Court and give necessary explanation for not appearing in the trial Court when summoned, then applying for grant of regular bail rather than approaching this Court claiming pre-arrest bail in an attempt to by-pass the trial Court of Sub Divisional Judicial Magistrate, Abohar, District Fazilka and seeking setting aside of order

dated 10.3.2021 declaring him proclaimed offender.

This Court in judgment *Mehnga Singh Versus State of Punjab, 2002(2) R.C.R.(Criminal) 501*, has 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.

On that score also, the petition is bound to fail.

Therefore, the petition stands dismissed accordingly.

13.7.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No