

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

CRM-M-19907 of 2021

DATE OF DECISION :- May 19, 2021

Nimma @ Nimmo

...Petitioner

Versus

State of Punjab and another

...Respondents

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

Present:- Mr. Shekhar Verma, Advocate for the petitioner.

The case has been taken up through Video Conferencing.

This petition for pre-arrest bail has been filed by petitioner Nimma @ Nimmo, an accused in a complaint case titled 'Hardip Kaur versus Mithun and others' which was pending before Judicial Magistrate Ist Class, Gurdaspur. She had been summoned to appear in that case by learned Judicial Magistrate Ist Class, Gurdaspur vide order dated 2.8.2010. Notice of the complaint was given to the petitioner accused as per Registered A.D. Post but she refused to accept the summons. Thereafter warrants of arrest were issued against her which were received back unexecuted. Proclamation under Section 82 Cr.P.C was published against the petitioner accused. She failed to appear in the court, as such she was declared a proclaimed offender way back in the year 2014. It is contended by learned counsel for the petitioner that petitioner was not duly served in the complaint case and has been wrongly declared as a proclaimed offender, therefore, she be granted pre-arrest bail.

In the judgment 'State of Madhya Pradesh versus Pradeep Sharma 2014(1) R.C.R. (Criminal) 269' the Hon'ble Supreme Court of India has observed that when an accused is absconding and has been declared as a proclaimed offender in terms of Section 82 Cr.P.C. then such accused should not be granted anticipatory bail. Further more, in a judgment passed by a coordinate Bench in case titled 'Mehnga Singh versus State of Punjab 2002(1) CLJ (Criminal) 302' it was observed that when an accused has been declared as a proclaimed offender petition against the order under Section 482 Cr.P.C. is not maintainable, the accused should first move the Court who had declared him a 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 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 present petition is doomed for failure and is dismissed accordingly. The petitioner is directed to surrender in the trial Court at the earliest. On her doing so and moving application for regular bail, the same be decided expeditiously.

(H.S. MADAAN)
JUDGE

May 19, 2021

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Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No