

219

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.26876 of 2021(O&M)
Date of Decision:26.08.2021

Jatinder Kumar Sharma

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Gourave Bhayya, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl., A.G., Punjab.

RAJ MOHAN SINGH, J. (Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C in case bearing FIR No.18 dated 10.03.2018 registered under Sections 419, 420, 201, 120-B IPC and Section 36 (1) (3) of Punjab Apartment and Property Regulation Act, 1995 at Police Station Satnampura Phagwara District Kapurthala.

Notice of motion was issued on 14.07.2021 on the premise that there is no declaration in respect of issuance of proclamation, thereby declaring the petitioner to be proclaimed person.

Learned counsel for the petitioner relied upon orders dated 19.09.2018, 27.09.2018 and 25.10.2018. The factum of passing of order of proclamation under Section 82/83 Cr.P.C against the petitioner was ordered to be brought on record. Thereafter, learned State counsel submitted the photostat of instructions sheet to show that the petitioner was declared as proclaimed person in the aforesaid FIR vide order dated 12.11.2018 passed by the trial Court.

Learned counsel for the petitioner took a stand that the said order is not available on record as per his instructions from the record of the trial Court.

Vide order dated 22.07.2021, learned State counsel was directed to place on record copy of order dated 12.11.2018 passed by the trial Court with advance copy to learned counsel for the petitioner.

Today, learned counsel for the petitioner has admitted the factum of passing of order dated 12.11.2018 by the trial Court.

Evidently, the petitioner took a wrong stand that the order dated 12.11.2018 is not in existence as per record.

Normally, petition under Section 438 Cr.P.C is not to be entertained on behalf of a person who is absconding in view of ratio laid down in **Lovesh Vs. State (NCT of Delhi), (2012) 8**

SCC 730.

At this stage, learned counsel for the petitioner submits that the petitioner does not want to press this petition, however with a liberty to surrender before the trial Court and apply for regular bail. The trial Court be directed to pass appropriate order in accordance with law within a specified period.

This petition is dismissed, however, with a direction that in case, the petitioner surrenders before the trial Court and apply for regular bail, the same be decided within a period of 10 days in accordance with law without being influenced by any statement of fact recorded hereinabove.

26.08.2021

*Prince***(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable**Yes/No**