

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

CRM-M-25864-2020(O&M)

Date of decision:-14.1.2021

Varjeena and others

...Petitioners

Versus

State of Punjab

...Respondent

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

Present : Mr.B.D. Sharma, Advocate
for the petitioners.

Mr.J.S.Ghuman, DAG, Punjab.

H.S. MADAAN, J.(ORAL)

Case taken up through video conferencing.

In FIR No.39 dated 24.3.2019 for the offences under Sections 376, 384, 325, 323, 506 and 34 IPC read with Section 67 of Information and Technology Act, 2000, registered with Police Station Division No.7, Jalandhar, petitioners Varjeena, aged about 37 years, resident of House No.279, Street No.12, Najjafgarh, New Delhi, Nancy, aged about 31 years, resident of House No.56/2, Canal Road, Dehradun and Vena, aged about 56 years, resident of House No.324, Guru Nanak Nagar, Bhogpur, Jalandhar, being accused in the said case had been declared proclaimed offenders vide order dated 1.2.2020. They are seeking quashing of the said order with a further prayer for granting an opportunity to submit to the jurisdiction of the trial Court by furnishing bail bonds contending that the main accused in the case happens to be brother of petitioners No.1 and 2 and son of petitioner No.3 and

warrants of arrest were got issued against the petitioners by furnishing wrong particulars including residential addresses.

When the petition came up for hearing, while issuing notice of motion returnable for 1.12.2020, a Co-ordinate Bench directed that in case the petitioners put in appearance before the trial Court within a period of 10 days from the date of order, they would be entitled to get ad interim protection as regards arrest, subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petitioners are said to have appeared before the trial Court and furnished the requisite bonds. Copies of orders passed by Additional Sessions Judge, Jalandhar in that regard have been placed on record. On the adjourned date, a question arose with regard to maintainability of the petition since this Court in case **Mehnga Singh Versus State of Punjab, 2002(2) R.C.R.(Criminal) 501**, had 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.

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.

On 1.12.2020, learned counsel for the petitioners sought some time to address the Court on the point of maintainability of the petition. The case was adjourned to 15.12.2020. On 15.12.2020, learned counsel for the petitioners stated that on account of bereavement in his family, he could not search the relevant law and sought further time, which was granted to him and case was adjourned to 14.1.2021 i.e. today.

Today again he is seeking more time. I do not see any justification to grant such time to him and it comes out that counsel for the petitioners has nothing to say in the matter.

In that way, the petition cannot proceed further and is dismissed accordingly.

However, the petitioners are relegated to the remedy of approaching the trial Court. As is apparent from the copies of orders placed on record by the petitioners, they have already appeared in the trial Court and then admitted to interim bail. As such, on an application being filed by the petitioners in the trial Court, the trial Court may dispose it of expeditiously.

(H.S.MADAAN)
JUDGE

14.1.2021
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No