

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

CRM-M-49942 of 2021 (O&M)

Date of Decision: November 30, 2021

Mindo @ Chhindo and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Gaurav Kalsi, Advocate
for the petitioners.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in FIR No.147 dated 26.07.2017, registered under Section 380 of Indian Penal Code (Section 454 of IPC added later on) at Police Station City Phagwara, District Kapurthala.

Counsel for the petitioners herein would contend that the petitioners are innocent and have been falsely implicated in the present case. It is argued that there is no evidence against the petitioners to connect them with the alleged commission of offence. It is also submitted that there is an inordinate delay of 14 days in the registration of the FIR. It is also contended that the petitioners were declared as proclaimed persons by the trial court under Section 82 Cr.P.C. by its order dated 18.03.2021.

Notice of motion.

At this stage, Mr. A.S. Gill, Sr. DAG Punjab, who is present in court, accepts notice on behalf of the respondent-State. He would submit that the anticipatory bail application filed by the petitioners had been dismissed by the Addl. Sessions Judge, Kapurthala by the impugned order dated 24.08.2017. Thereafter, both the petitioners evaded the process of the court/investigating agency and ultimately declared as proclaimed persons by an order dated 18.03.2021. He opposes the instant petition for grant of anticipatory bail to the petitioners, by contending that they should not be granted anticipatory bail, as they have been declared as proclaimed persons by the trial court.

I have heard learned counsel for the parties and have also gone through the pleadings of the case.

In the present case, admittedly, the petitioners were declared as proclaimed persons by the trial court by an order dated 18.03.2021, after dismissal of their application for grant of anticipatory bail by the Addl. Sessions Judge, Kapurthala on 24.08.2017. In the case of ***State of Madhya Pradesh vs. Pradeep Sharma***, Criminal Appeal No.2049 of 2013, decided on 06.12.2013, the Apex Court has held that if the accused is absconding and declared as absconder or proclaimed offender in terms of Section 82 Cr.P.C, the accused is not entitled for the relief of anticipatory bail. In the recent case in ***Prem Shankar Prasad vs. The State of Bihar and another***, Criminal Appeal No.1209 of 2021, decided on 21.10.2021, the Apex Court, while relying upon its earlier decision rendered in the case of ***State of Madhya Pradesh vs. Pradeep Sharma (supra)*** has reiterated the same view.

In the light of the aforesaid ratio of law held by the Apex Court,

the instant petition is not maintainable and the same is hereby dismissed. However, both the petitioners are granted a period of two weeks from today to surrender before the trial court and pray for their regular bail by moving the appropriate application, which application will be considered and decided by the trial court in accordance with law on its own merits.

November 30, 2021
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No