

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.**

**Date of decision: 05.04.2022**

**1. Criminal Miscellaneous No.-M-6979-2022 (O &M)**

ARUN KUMAR @ VARUN

.....Petitioner

*Versus*

STATE OF UT CHANDIGARH AND ANR

.....Respondents

**2. Criminal Miscellaneous No.M-6966-2022 (O &M)**

ARUN KUMAR @ VARUN

.....Petitioner

*Versus*

STATE OF UT CHANDIGARH AND ANR

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SANT PARKASH**

Present : Mr. Raman Goklaney, Advocate  
for the petitioner.

Mr. Kuldeep Tiwari, Addl. P.P., U.T., Chandigarh  
for respondent No. 1

Ms. Puja Chopra, Advocate  
for respondent No. 2

\*\*\*\*

**SANT PARKASH, J. (Oral)**

**CRM-5918-2022 in CRM-M-6979-2022**

For the reasons mentioned in the application, the same is allowed and the petitioner is exempted from placing on record the certified copy/true typed copy of order dated 24.08.2021 passed by learned Additional Sessions Judge, Chandigarh in BA/953/2021 and photocopy of the same as annexed with the petition is taken on record as Annexure P-3.

**CRM-5908-2022 in CRM-M-6966-2022**

For the reasons mentioned in the application, the same is allowed and the petitioner is exempted from placing on record the certified copy/photocopy of order dated 21.10.2019 passed by learned Chief Judicial Magistrate, Chandigarh in case NACT/6012/2015 and true typed copy of the same as annexed with the petition is taken on record as Annexure P-17.

**CRM-M-6979-2022 and CRM-M-6966-2022**

This judgment shall dispose of aforementioned two petitions as they arise out of same criminal complaint.

**CRM-M-6979-2022** has been filed grant of anticipatory bail to the petitioner in criminal complaint bearing No. NACT/6012/2015 titled as “High Court of Punjab and Haryana at Chandigarh Vs. Arun Kumar ” filed under Sections 193, 199, 200 and 420 IPC read with Section 340 Cr.P.C. whereas **CRM-M-6966-2022** has been filed seeking quashing of the order dated 21.10.2019 whereby the petitioner has been declared as proclaimed person in the afore said complaint.

Brief facts of the case are that the petitioner and his wife approached the Hon'ble High Court by way of filing petition **Criminal Miscellaneous No. M-2553 of 2015** seeking protection of their life and liberty after performing love marriage. The petitioner in connivance with his wife came up with false representation in the affidavits as well as the main petition with regard to the date of birth of the wife of the petitioner. When the parents of the wife of the petitioner appeared

before the Hon'ble High Court in the said petition and submitted the true facts and their affidavits regarding the age of their daughter i.e. wife of the petitioner, then the present complaint was ordered to be lodged against the petitioner and his wife vide order dated 18.08.2015.

The relevant part of the order reads as under :-

“....In the instant case, petitioners were legally bound by oath to state truth in the petition and the affidavit filed in support of it. The date of birth of petitioner No. 1 was stated to be 03.05.1996 but as per Matriculation certificate Annexure R-4/1 placed on record by private respondents her date of birth in fact is 03.05.1998. So they misrepresented and made false statement in the affidavit. Therefore, they have been *prima facie* made liable under Section 193 IPC. So I find it expedient that a complaint should be made against petitioners in terms of Section 340 Cr.P.C.

Registrar General/Authorized Officer of this Court is directed to file necessary criminal complaint against petitioners in the Court of competent jurisdiction at Chandigarh. The complaint against petitioner No. 1 would of course be filed before the Juvenile Justice Board, Chandigarh....”

In view of the aforesaid order, criminal complaint was got lodged by respondent No. 2 before learned Chief Judicial Magistrate, U.T., Chandigarh on 30.10.2015. The petitioner absented himself in the said complaint and ultimately was declared as proclaimed person on account of his non appearance vide order dated 21.10.2019. The relevant part of the order is reproduced as under :-

“ Today, the case was fixed for presence of accused Arun Kumar. Proclamation under Section 82 Cr.P.C. issued against the accused has already been received back duly executed. Statement of the executing official has been recorded. Period of 30 days has already been expired. Case called several times since morning but neither the accused Arun Kumar nor anyone on his behalf has appeared before Court. It is already 02:00 P.M. waited sufficiently. Further wait is not justified. Hence, the accused Arun Kumar is

hereby declared as “Proclaimed Person”.

I have heard learned Counsel for the parties and have gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has not received any notice/summons in the aforesaid criminal complaint nor any bailable or non bailable warrants ever executed upon him. The petitioner came to know about the pendency of the present complaint against him only when he accompanied his wife namely Himani Sharma before the Juvenile Justice Board during her appearance in the criminal complaint registered against her. The absence of the petitioner from the Court was not intentional or deliberate. The petitioner is ready to join the investigation/trial and his custodial interrogation is not required.

It has been further averred in the petition that mother-in-law of the petitioner got lodged FIR No. 11 dated 23.01.2015 under Sections 363 and 366-A IPC at Police Station Ferozepur Cantt. against the petitioner and during the pendency of trial, the compromise/settlement arrived at between the parties and the said FIR has been quashed vide order dated 26.09.2019 passed in CRM-M-52478-2018 by this Court. The petitioner was not aware about the proceedings pending before the learned Court below at Chandigarh and after quashing of the aforesaid FIR, the petitioner and his wife believed that every offence in respect of their run-away marriage stands quashed.

On the other hand, learned State Counsel and learned Counsel for respondent No. 2 have submitted that the petitioner was

well aware of the proceedings instituted against him and had evaded the process of law for the last four years. The petitioner has committed serious offence by submitting false affidavit. In view of gravity of accusation, the petitioner does not deserve the grant of anticipatory bail. Further, the petitioner has been rightly declared as proclaimed person vide order dated 21.10.2019 after expiry of the period of 30 days from publication of the proclamation. The impugned order dated 21.10.2019 does not suffer from any illegality.

The Courts have been granted power to grant anticipatory bail to protect against motivated criminal litigation instituted at the instance of unscrupulous litigants animated by malice or political vendetta. Grant of anticipatory bail is an extra-ordinary remedy and is not, therefore, intended to be granted in every case. Number of factors including nature and gravity of the offences, quantum of sentence, likelihood of the accused absconding, intimidating or influencing the witnesses or tempering with the evidence or committing similar offences have also to be taken into consideration.

The argument/pleading as to the petitioner was not aware of the criminal complaint filed before the learned trial Court does not stand on its legs particularly when the order instituting the complaint against the petitioner and his wife was passed in the presence of the their counsel representing the petitioners in their petition for grant of protection. The complaint was lodged in the year 2015 and the petitioner was declared as proclaimed person in the year 2019. The petitioner evaded the process of law for such a long period of four

years. The petitioners came up with false representation in their affidavit as well as the main petition seeking protection of their life and liberty and the said act of mis-representation and concealment of facts cannot be let off lightly.

Further, the petitioner has been rightly declared as proclaimed person vide order dated 21.10.2019 passed by learned Chief Judicial Magistrate, Chandigarh after following the due procedure as prescribed in law. The impugned order dated 21.10.2019 does not suffer from any illegality.

In view of the above discussion, both the petitions CRM-M-6979-2022 and CRM-M-6966-2022 being devoid of any merit are dismissed accordingly.

**05.04.2022**  
kavneet singh

**(SANT PARKASH)**  
**JUDGE**

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |