

212

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

Date of decision-29.03.2022

1. CRM-M-36016-2021

Tinkeshwar Jain	Vs.	Petitioner
State of Punjab		...Respondent

2. CRM-M-43262-2021

Tinkeshwar Jain	Vs.	Petitioner
State of Punjab		...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Anil Kumar Garg, Advocate for the petitioner.
Mr. Sandeep Singh Deol, DAG, Punjab.

MANOJ BAJAJ, J.

Petitioner has filed these separate petitions under Section 438 Cr.P.C and Section 482 Cr.P.C respectively, seeking anticipatory bail in case FIR No.245 dated 12.09.2018 under Section 420 Indian Penal Code, 1860 and Sections 4 and 5 Prize Chits and Money Circulation Schemes (Banning) Act, 1978 registered at Police Station City Sangrur, District Sangrur as well as quashing of order dated 30.07.2021, whereby he was declared as proclaimed person.

The allegations in the FIR, as noticed by the learned Additional Sessions Judge, Sangrur in the order dated 17.03.2021 are as under:-

“Brief facts of the case are that the present FIR has been registered against Sandeep Kumar and Jatinder Jain on the basis of the application moved by the complainant Daljit Singh son of Harnek Singh resident of Namol, District Sangrur, wherein he has alleged that he had invested Rs.1,00,000/- by way of installments in the MSD Premier Thrift and Credit Co-operative Society, Sangrur,

with Sandeep Kumar Manager and Jatinder Jain and till 11.11.2017 the maturity value of the same was Rs.1,50,000/- . In this regard he handed over the policy to the above said persons, but they have been evading to make the payment. In this regard he had moved an application to Police Station City, Sangrur and there also they kept putting off the matter. The complainant has further alleged that Sandeep Kumar Manager and his friend came to his house and asked the complainant to receive Rs.10,000/- and promised to pay the remaining amount in instalments, but the complainant stated that he be paid the entire amount. On this Sandeep Kumar started giving threats to the complainant.”

After hearing learned counsel for the petitioner, on 02.09.2021, the following order was passed:-

“Learned counsel contends that the FIR was lodged initially against Sandeep Kumar and Jatinder Jain, who were handling affairs of M/s SMD Premier Thrift and Credit Co-Operative Society Ltd. and had received investments from investors. The petitioner being employee of the company was indicted as an accused subsequently, upon the statements of three victims, namely, Manpreet Singh, Jaspreet Singh and Surinder Kaur, who had in all deposited Rs.1,60,000/- with the company, but the petitioner has settled the matter with them and in this regard he has relied upon their affidavits. According to him, in the given facts, the custodial interrogation of the petitioner may not be necessary.

Notice of motion for 29.10.2021.

Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner has submitted that pursuant to the above order, petitioner has joined the investigation, who has also cooperated with the investigating officer, therefore, he be granted the concession of pre arrest bail. He has further argued that when the petition for

pre arrest bail was filed by the petitioner on 31.08.2021, the petitioner was not aware that vide order dated 30.07.2021, the Court has already declared him as a proclaimed person in the subject FIR. He submits that the petitioner has filed the connected petition for quashing of the said order as he was not properly served. According to him, the petitioner was availing his remedy of pre arrest bail in the court of law, therefore, the impugned order was passed in haste to declare the petitioner as proclaimed person, and the same is not sustainable. He prays for quashing of the said order.

Learned State counsel assisted by ASI Sukhwinder Singh has opposed the prayer, who has argued that the petitioner was well aware of the case FIR No.245 dated 12.09.2018 under Section 420 IPC and Sections 4 and 5 Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and despite dismissal of his bail application on 17.03.2021, he neither surrendered nor associated with the investigation. He has referred to the reply filed by way of affidavit dated 22.03.2022 of Hans Raj, PPS, Deputy Superintendent of Police, Sub Division, Sangrur and has further argued that the petitioner actively participated in the crime along with other co-accused and was evading his arrest, therefore, in order to secure his presence, the proceedings were initiated against him under Sections 82 and 83 Cr.P.C. He submits that proper procedure was followed by the Court, therefore, the order is rightly passed and does not warrant any interference.

Learned counsel for the parties have been heard and with their assistance, the case files have been perused carefully.

During the course of hearing, it is not disputed by learned counsel that after dismissal of his pre arrest bail application on 17.03.2021, the petitioner did not approach this Court till August, 2021 as according to

him, the petitioner was making an attempt to settle the dispute with the victims and was taking steps to get himself exonerated in the investigation by police.

Further, in order to ascertain the issue of service of proclamation notice issued under Section 82 Cr.P.C, learned counsel for the petitioner was asked to produce the copy of proclamation notice and in response, he fairly stated that though the said notice is not on record, but the address contained in the notice was correct. Mr. Garg, learned counsel has pointed out that the petitioner is still residing at the said address, which is also mentioned in these petitions as well. Thus, in the facts and circumstances of the case, the stand of the petitioner that he was not aware of the impugned order dated 30.07.2021 is not acceptable, as concededly the service of proclamation notice was effected at the correct address on 19.04.2021 and in this regard, the statement of serving constable is on record as Annexure P-6.

The above sequence of events, particularly the material on record, do not indicate that there is any illegality in the impugned order dated 30.07.2021, as admittedly the petitioner after dismissal of his bail application by Court of Sessions, neither approached this Court to seek the concession of pre arrest bail in time nor associated with the investigation. Since the petitioner was already a proclaimed person, when he applied for pre arrest bail before this Court and this material fact has not been disclosed either in the petition under Section 438 Cr.P.C or during the course of hearing on 02.09.2021, therefore, this Court is not inclined to extend the extra ordinary concession of pre arrest bail to the petitioner in view of the decision dated 27.08.2021 delivered by this Court in **CRM-M-56142-2018**

(Arjun Bhanot Vs. State of Punjab and Anr).

Resultantly, considering the above background, the impugned order dated 30.07.2021 declaring the petitioner as proclaimed person does not warrant any interference.

Consequently, both petitions are dismissed.

(MANOJ BAJAJ)
JUDGE

29.03.2022
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No