

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43584-2021
Reserved on: 07.09.2022
Pronounced on: 09-09-2022

Jaswinder Singh...Petitioner

Versus

State of Punjab...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Bhavna Walia, Advocate for the petitioner(s).

Mr. Virat Rana, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
71	28.05.2021	Sirhali, Distt. Tarn Taran	302, 307, 506, 148, 149 & 452 IPC

Seeking quashing of proclamation order dated 13-09-2021, passed by JMIC Tarn Taran, the accused has come up before this court under Section 482 of the Code of Criminal Procedure, 1973 (CrPC).

2. On being arraigned as an accused in the FIR captioned above, the petitioner approached this court by filing a petitioner for anticipatory bail, which was registered as CRM-M-32714-2021 Jaswinder Singh v. State. On 13-08-2021, the court passed the following order:

“Heard through video conferencing.

The petitioner is seeking anticipatory bail in FIR No.71 dated 28.05.2021, under Sections 307, 506, 148 and 149 of the Indian Penal Code, 1860 (‘IPC’- for short) (Section 302 and 452 IPC added on 10.06.2021), registered at Police Station Sirhali, District Tarn Taran.

Learned counsel for the petitioner contends that although the petitioner is stated to have armed with a ‘kirpan’, but only kick blows have been attributed to him. The deceased had succumbed to his injuries after fourteen days of the incident due to head injury and septicemia. The head injury is not attributed to the petitioner.

Issue notice to the respondent.

At the asking of the Court, Mr. Dhruv Daul, Senior DAG, Punjab, accepts notice

on behalf of the respondent-State and prays for time to file an affidavit with regard to the role and the prima facie material against the petitioner.

List on 31.08.2021."

3. A perusal of the order dated 13-08-2021 reveals that the petitioner did not get any interim protection. Thus, if the police wanted to apprehend the petitioner, it was legally permissible for the police to arrest him, which would have rendered the petitioner's anticipatory bail infructuous. However, it appears that did not happen.
4. In the interregnum, vide order dated 13-09-2021, the JMIC Tarn Taran noticed that the proclamation proceedings against the petitioner and some other accused were complete, and thus, he declared them proclaimed offenders and also sent a communication to the concerned SHO for the registration of FIR.
5. After that on 11-10-2021, this court dismissed the anticipatory bail petitioner as withdrawn at this stage.
6. The petitioner's grievance is that once his anticipatory bail petition was pending before this court, it was inappropriate and legally not permissible for the committal court to declare him as a proclaimed offender.
7. Be that as it may, a perusal of the present petition reveals that the petitioner is not in prison, and he is silent about his being released on bail post-arrest because his anticipatory bail was dismissed as withdrawn, and the court had not reserved any liberty to file the second bail under section 438 CrPC. It implies that the petitioner is still a fugitive. In paragraph 11 of this petition, the petitioner undertakes to join the investigation as nothing is to be recovered from him and is not required for custodial investigation.
8. Given above, it is crystal clear that the petitioner has devised this shrewd tactic to get protection from arrest in the order of stay in a proclamation order. Thus, the petitioner would be entitled to the relief of setting aside the proclamation order on legal grounds only after he surrenders before the trial court. After the surrender, it shall be permissible for the petitioner to file a fresh petition for quashing the proclamation order and a separate petition for quashing FIR under section 174-A IPC.

Petition dismissed in the terms mentioned above.

(ANOOP CHITKARA)
JUDGE

September 09, 2022
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Whether speaking/reasoned: Yes
Whether reportable: No.