

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

CRM-M-298-2022 (O&M)
Date of Decision:- 11.5.2022

Rafik ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jamshed Ahmed, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana
assisted by ASI Sher Singh.

Mr. Rohit Rana Advocate for
Mr. Kunal Dawar, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered against him vide FIR No. 330 dated 23.10.2020 under Sections 148, 149, 323, 324, 506, 307 IPC at Police Station Hathin, District Palwal.
2. The FIR in question was lodged at the instance of Junaid, wherein it is alleged that when he alongwith other members of the family were present in their fields, Tauhid and Istak caught hold of his father Ajmat. While Rafik gave a blow with knife on his father's leg, Jan Mohammad is stated to have given a blow with rod on the leg of his father Ajmat. It is alleged that accused Memuna and Irfan caught hold of his brother Sakir while Lallu gave blow with '*lathi*' on his head.

3. It needs to be mentioned that the petitioner had been declared a proclaimed offender by the trial Court vide order dated 12.1.2022 during the pendency of the instant petition. Although, the petitioner had not been granted any interim relief when the petition was taken up for preliminary hearing on 7.1.2022 but subsequently upon an application having been moved by the petitioner, this Court granted interim bail to the petitioner vide order dated 22.2.2022 on an application dated 14.2.2022 filed on behalf of the petitioner. As already stated above, the petitioner had already been declared a proclaimed offender on 12.1.2022 and the said fact had also been specifically mentioned in the status report filed by the State on 13.1.2022 but despite the same, the said fact was concealed from the Court by the petitioner at the time of filing the application for grant of interim bail. Though, the learned counsel for the petitioner vehemently argued that it was during the course of pendency of this petition that the petitioner came to be declared a proclaimed offender and that the same would not affect the case of the petitioner for grant of anticipatory bail but this Court is unable to accept the aforesaid contention for the reason that filing of a petition under Section 438 Cr.P.C *ipso facto* would not operate any kind of stay for conduct of proceedings under Section 82 Cr.P.C. As such, in the absence of any kind of stay or interim bail granted by this Court, the order passed by the trial Court declaring the petitioner as proclaimed offender cannot be overlooked.
4. Hon'ble Supreme Court in Lavesh versus State (NCT of Delhi) - 2012 (8) SCC 730 and in State of Madhya Pradesh versus Pradeep Sharma - 2014(2) SCC 171 held that if an accused has been declared a proclaimed offender, he would not be entitled for grant of anticipatory bail.

5. In view of the facts of the present case, especially in light of ratio of judgments of Hon'ble the Supreme Court, this Court does not find any special case for grant of anticipatory bail.
6. The petition is sans merit and is hereby dismissed.

11.5.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No