

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

**CRM-M-23347-2023
DECIDED ON: 09.05.2023**

JAGJIT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Manvender Chauhan, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

The instant petition under Section 438 Cr.P.C., has been filed for grant of anticipatory bail to the petitioner in FIR No.158, dated 08.07.2019, under Sections 323, 324, 336, 148, 149 of IPC, 1860 and Sections 25 & 27 of Arms Act, 1959 (Sections 325, 326, 307 of IPC added later on) registered at Police Station Beas, District Amritsar Rural.

Learned counsel for the petitioner has assailed the order passed by the Court below dated 29.04.2023 (Annexure P-9) claiming relief of anticipatory bail primarily on the ground that the other two co-accused persons namely Lovejeet Singh and Baljeet Singh have been released on anticipatory bail vide order dated 11.12.2019 and 05.05.2020 (Annexures P-6 & P-7 respectively) passed in CRM-M-37330-2019 and CRM-M-49231-2019.

However, a perusal of the order dated 29.04.2023 (Annexure P-9) shows that the relief claimed by the petitioner has been declined by the Court below on the ground that he alongwith other co-accused persons armed with

weapons and gave injuries to the complainant particularly on the head and near right eye. It is also apparent from the record that the victim-complainant has suffered 9 injuries on the person out of which, 5 have been declared as dangerous to life. In fact, it was a 4th anticipatory bail, which was preferred before the Court of Additional Sessions Judge, Amritsar and there was no change of circumstance brought forth in the subsequent applications.

Notice of motion.

On the asking of Court, Mr. Rajiv Verma, DAG, Punjab accepts notice on behalf of respondent-State.

Mr. Sarbjit Singh, Advocate has puts in appearance on behalf of complainant and filed vakalatnama, which is taken on record.

Learned State counsel asserts that on three occasions vide orders dated 14.11.2019, 16.03.2020 and 06.07.2020, the earlier applications on the same cause of action have been dismissed by the Court below consistently and in the instant application, there was no fresh ground shown apart from the fact that the petitioner has not approached before this Court with clean hands, as before the trial Court he was declared proclaimed offender vide order dated 16.12.2019, which was put to challenge before the High Court as well vide CRM-M-42091-2020. Finally the said petition has been dismissed by the co-ordinate Bench of this Court vide order dated 09.02.2023 (Annexure P-8).

This Court has perused the aforesaid order with the able assistance of learned State counsel, who has drawn attention of this Court to paras 6, 9, 12, 13, 14 & 16, which reads as under:-

6. Vide order dated 16.12.2020, while issuing notice of motion, petitioners were directed to be released on interim

bail subject to their surrendering before the trial Court within one week. It is contended by learned counsel for the respondents that the said order was obtained by concealing the material fact that anticipatory bail application of one of the petitioners had already been dismissed on 28.08.2019 by this High Court and further that petitioners had been declared proclaimed offender prior to finding them innocent in the first investigation. It is also pointed out by counsel for the respondents that though petitioners initially surrendered before the trial Court in view of order dated 16.12.2020 but later on one of them, namely, Shagandeep again became absent and has been ultimately declared proclaimed offender on 22.12.2022.

*9. Refuting the said contentions, it is argued by learned State Counsel along with counsel for the complainant that petitioners approached this Court by concealing the material fact to the effect that they were declared proclaimed offenders on 16.12.2019 and it is only thereafter that they were declared innocent. However, on the representation made by the complainant, all the petitioners along with other accused have been sought to be prosecuted. It is further pointed out that affidavits dated 02.11.2021 of Members, Panchayats have been procured by the petitioners, are apparently false because there was no corona during the period when police visited the village of petitioners on 13.09.2019. Learned counsel also referred to **M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others, AIR (Supreme Court) 1918 and State of Telangana Vs. Habib Abdullah Jeelani and others, 2017(1) R.C.R. (Criminal) 537**, in order to contend that without resorting to the provisions for seeking anticipatory bail, the petition has been filed and interim relief has been obtained, which practice has been*

deprecatd by Hon'ble Supreme Court.

12.Learned counsel for the respondents are right in contending that petitioners have tried to mislead this Court by concealing the material facts. Impugned order Annexure P.3 dated 16.12.2019 declaring the petitioners as Proclaimed Offenders had been passed much prior to the finding of the first investigation that petitioners were innocent. That finding was given by SP (Investigation) on 27.05.2020 and his opinion was confirmed by the District Attorney (Legal). So, contention of the petitioners is wrong that despite being declared innocent, they were declared proclaimed offenders by the Court. Here itself, it may be noted that on the representation of the complainant of the case, matter was re-investigated and the petitioners along with other accused were found to be culprits and sought to be prosecuted.

13. Proceeding further, it is on 20.08.2019 that application was moved by the Investigating Agency to initiate proclaimed offender proceedings against six accused including the petitioners. Non bailable warrants were issued on 13.09.2019, which was entrusted to ASI Charanjit Singh. He conducted raids at the house of petitioners and other co-accused but the petitioners were found to be absconding, which is evident even from the statement of Gurdev Singh, Member Panchayat (Annexure R.1/T) and that of Sohan Singh Watchman (Annexure R.2/T). It is in these circumstances that proclamation was issued by the Court against six accused including petitioners on 13.09.2019 for their appearance before the Court on 16.12.2019. Copy of the said proclamations are Annexures P.10 to P.12 clearly indicating that the petitioners were required to appear before the Court within 30 days from the date of issuance of the proclamation. Next

date of hearing was fixed to be 16.12.2019. The proclamation was duly effected on 01.11.2019, as evident from the reports Annexures P.14 to P.16 of ASI Avtar Singh and the statement dated 16.12.2019 made by him before the Court Annexure P.13. Annexure R3/T, Annexures R4/T and Annexure R5/T are statements of Sohan Singh Watchman revealing that proclamation notice issued by the Court against three petitioners was duly pasted on the pillar of the gate of the house of the petitioners, in his presence. Another copy was pasted on the thoroughfare street of the Village and the announcement was made in village.

*16. The practice of seeking interim protection in petition under Section 482 Cr.P.C., without resorting to the provisions of Section 438 Cr.P.C has been highly deprecated by Hon'ble Supreme Court in **Habib Abdullah Jeelani and M/s Neeharika Infrastructure Pvt. Ltd. Case (supra).**”*

Looking to the overall totality of the facts in collectivity and the conduct of the petitioner is not the one, wherein doubt can be raised to the prosecution case or prima facie could be hampered that the prosecution of the petitioner would lead to acquittal from whom the recovery of weapon is to be effected, who has not joined the investigation and even declared proclaimed offender and still the status is same, after dismissal of the petition by this High Court vide order dated 09.02.2023 (Annexure P-8).

Considering the aforesaid factual aspects and antecedents of the petitioner, this Court is of the firm view that such kind of offenders do not deserve any concession or sympathy to stay scot free in the society, and, therefore, the present petition deserves to be dismissed.

Accordingly, the present petition stands dismissed being devoid

of merits.

09.05.2023

Meenu

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>