

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

CRM-M-26373-2022

Date of decision :28.07.2023

ANOOP @ ANUP**... Petitioner(s)****Versus****STATE OF HARYANA****+...Respondent(s)****CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. P.S. Sekhon, Advocate
for the petitioner(s).

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order dated 30.03.2022 passed by the Sub Divisional Magistrate, Mahendergarh (Annexure P-7) vide which the petitioner has been declared a proclaimed person in case FIR No.298 dated 04.07.2021 under Sections 20(b) (ii) (c), 27-A and 29 of the NDPS Act, 1985 Police Station City Mahendergarh, District Mahendergarh.

The learned counsel for the petitioner contends that the petitioner had filed CRM-M-7153-2022 for the grant of anticipatory bail which had come up for hearing on 21.02.2022. Thereafter, the matter stood adjourned to 28.02.2022 and on which date, the State counsel was directed to file an affidavit regarding the role played by the petitioner. Subsequently, on 08.03.2022, an affidavit of Deputy Superintendent of Police, Haryana State Narcotics Control Bureau, Gurugram was filed in Court and the matter was adjourned for 24.03.2022. Ultimately, on 09.05.2022, the petitioner was directed to join investigation. However, in the meantime, he was declared a proclaimed person on 30.03.2022

(Annexure P-7) despite the fact that he was availing his legal remedy of seeking anticipatory bail. He, therefore, contends that as the petitioner is not absconding from justice, the impugned order dated 30.03.2022 (Annexure P-7) vide which he had been declared a proclaimed person be quashed.

The learned State counsel while referring to the reply dated 02.08.2022, contends that the petitioner was rightfully declared a proclaimed person. Therefore, the present petition ought to be dismissed. He, however, does not dispute the factual narration as above regarding the dates on which the petition for anticipatory bail was filed and interim anticipatory bail was granted.

I have heard the learned counsel for the parties.

When this matter had come up for hearing before this Court on 13.06.2022, the following order was passed:-

“It is contended by counsel for the petitioner that the petitioner filed an anticipatory bail application i.e. CRM-M-7153-2022 in FIR No. 298 dated 04.07.2021 registered under Section 20(b)(ii)(c), 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, P.S. Mahendergarh City. It is submitted that vide the order dated 28.02.2022 (Annexure P-5), the State was directed to file an affidavit as to what material had come on record to connect the petitioner to the co-accused namely Sahid @ Sahil.

It is submitted that the petitioner was being involved on account of disclosure statements made by two persons namely Pradeep and Sahid during the pendency of the proceedings. P.O. proceedings as such had been initiated and order dated 30.03.2022 was passed by the Sub

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Divisional Judicial Magistrate, Mahendergarh (Annexure P-8) and directions were issued to register the case under Section 174-A IPC. The said fact of the proceedings being pending before the Magistrate were never brought to the notice of this Court by the State and the petitioner was also granted the benefit of interim bail on 09.05.2022 (Annexure P-7). In such circumstances, the order as such is being challenged declaring him as a Proclaimed Offender and also to grant anticipatory bail in FIR No. 118 dated 19.04.2022 lodged at P.S. Mahendergarh. The anticipatory bail application of the petitioner has also been dismissed by the Additional Sessions Judge, Narnaul on 23.05.2022 (Annexure P-9).

Notice of motion.

Mr. Pankaj Mulwani, DAG, Haryana accepts notice on behalf of respondent-State and prays for time.

Adjourned to 08.08.2022.

To be heard alongwith CRM-M-7153-2022.

Keeping in view the above, the petitioner shall put in appearance before the Sub Divisional Judicial Magistrate, Mahendergarh and before the Special Court at Narnaul and file his bail bonds, which shall be accepted by the competent Court.

Photocopy of the order be placed on the file of connected case.

Pursuant to the aforementioned order, the petitioner furnished his bail bonds.

It is also factually correct that on the date the petitioner was declared a proclaimed person, his petition for the grant of anticipatory bail was also pending before this Court, the same having been filed on 21.02.2022.

In view of the aforementioned facts, by no stretch of imagination can it be held that the petitioner was absconding from justice. In fact, quite, apparently, he has availed his remedy of approaching this Court by way of a petition for the grant of anticipatory bail.

Keeping in view the aforesaid facts, I find considerable merit in the present petition and therefore, the order dated 30.03.2022 passed by the Sub Divisional Magistrate, Mahendergarh (Annexure P-7) vide which the petitioner was declared a proclaimed person in FIR No.298 dated 04.07.2021 under Sections 20(b) (ii) (c), 27-A and 29 of the NDPS Act, 1985 Police Station City Mahendergarh, District Mahendergarh along with all consequential proceedings arising therefrom stands quashed.

The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

28.07.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No