

107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32846-2023
Date of decision:12.07.2023

Balkar Ram @ Vicky @ Bindi ...Petitioner

vs.

State of Punjab ...Respondent

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**

Present : Mr. Arihant Jain, Advocate
For the petitioner.

N.S.Shekhawat J.

The petitioner has filed the present petition under Section 438 Cr.P.C. with a prayer to grant anticipatory bail to him in case FIR No.11 dated 10.01.2009, under Section 68 of the Punjab Excise Act, 1914 registered at Police Station Phillaur, District Jalandhar.

It is not in dispute that the FIR in the present case was registered on 10.01.2009 and the challan was presented on 04.04.2009 against the petitioner and one more person, namely, Tilak Raj. As per the admitted case of the petitioner, he moved an application for exemption from personal appearance on 24.08.2010 and his personal appearance was exempted by the trial Court. Thereafter, on 09.12.2010, neither the petitioner nor his counsel appeared before the trial Court and the trial Court ordered to cancel his bail bonds and the surety bonds and non-bailable warrants were issued against the petitioner. Thereafter, on 09.04.2012, the trial Court declared the petitioner as proclaimed offender and ordered that the prosecution evidence would be recorded under

Section 299 Cr.P.C. Accordingly, the statements of various prosecution witnesses were recorded under Section 299 Cr.P.C. and the file was ordered to be consigned to record room.

Learned counsel for the petitioner contends that on 24.08.2010, the petitioner was granted exemption from personal appearance and the case was adjourned to 09.12.2010. However, neither the petitioner nor his counsel appeared before the trial Court on 09.12.2010 as the petitioner misunderstood from his counsel that he had been acquitted and the case had been decided. Accordingly, non-bailable warrants were issued against him and finally, he was ordered to be declared as a proclaimed offender.

I have heard learned counsel for the petitioner and perused the record with their able assistance.

From a perusal of the averments made in the petition, it is evident that the petitioner was granted exemption from personal appearance on 24.08.2010. Thereafter, the petitioner, on his own, assumed that he had been acquitted and the case had been decided and stopped appearing before the trial Court. In such a situation, the trial Court was left with no other option except to declare the petitioner as a proclaimed offender. Now, after a period of more than 11 years, the petitioner has filed the present petition under Section 438 Cr.P.C. with a prayer to grant anticipatory bail to him. However, in view of the conduct of the present petitioner, he is not entitled to any relief by this Court.

Further, it has been held by the Hon'ble Supreme Court in the matter of **Lavesh Vs. State (NCT of Delhi) 2012 (4) RCR (Criminal) 240; 2012 (3) SSC (Criminal) 1040.**

“From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and declared as “absconder”. Normally, when the accused is “absconding” and declared as a “proclaimed offender”, there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code is not entitled the relief of anticipatory bail.”

The law laid down by the Hon’ble Supreme Court in the matter of Lavesb's case (supra) has been reiterated by the Hon’ble Supreme Court in the matter of **State of Madhya Pradesh Vs. Pradeep Sharma, 2014 (1) RCR (Criminal) 269; 2014 AIR (Supreme Court) 626.**

In view of the above, the present petition is devoid of merits and the same is ordered to be dismissed.

12.07.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No