

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-33262-2023

Date of Decision: 14.07.2023

Suresh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Rahul Singla, Advocate,
for the petitioner.

VIKAS SURI, J.

The instant petition, preferred under Section 438 Cr.P.C., is for grant of anticipatory bail in case FIR No.310 dated 13.06.2023, under Section 174-A IPC, registered at Police Station Civil Lines Hisar, Haryana (Annexure P-1).

Learned counsel for the petitioner has submitted that the above-mentioned FIR has been lodged pursuant to order dated 29.05.2023, whereby the petitioner was declared proclaimed person. He submitted that the petitioner could not put in appearance before the Court in pursuance to the summons, bailable warrants and warrants of arrest, issued in case CIS No.NACT/2723/2019, titled Mahinder Singh Nain Vs. Suresh Kumar, which was a complaint under Section 138, Negotiable Instruments Act for want of being served. The petitioner, vide order dated 29.05.2023, was declared as proclaimed person and thereafter, the present FIR under Section 174-A IPC

was registered against him.

Heard.

It is the conceded position that the petitioner is a proclaimed person and till date, he has not challenged the order dated 29.05.2023, by which he was declared proclaimed person. The Apex Court in ***State of Madhya Pradesh Vs. Pradeep Sharma, (2014) 2 SCC 171***, held that anticipatory bail on behalf of a proclaimed offender/proclaimed person is not maintainable. The relevant part of the aforenoticed judgment reads as under:-

“16. Recently, in *Lavesh vs. State* (NCT of Delhi), (2012) 8 SCC 730, this Court, (of which both of us were parties) considered the scope of granting relief under Section 438 vis-à-vis to a person who was declared as an absconder or proclaimed offender in terms of Section 82 of the Code. In para 12, this Court held as under:

“12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and was 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 he is not entitled to the relief of anticipatory bail.”

It is clear from the above decision that if anyone is declared as an absconder/proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail.”

It may also be noticed that a coordinate Bench, following the

ratio of the aforesaid judgment, dismissed the petition seeking anticipatory bail in *Inam Vs. State of Haryana, 2022 (3) Cri.CC 193*. It may also be mentioned here that the petitioner had first approached the learned Additional Sessions Judge, Hisar, for the same relief, which application was dismissed vide order dated 05.07.2023 (Annexure P-5) considering the observations made by this Court in *Inam's* case (supra). In spite of the same, petitioner has yet not raised any challenge to the order dated 29.05.2023 declaring him as proclaimed person.

In view of the aforesaid position, the present petition is, hereby, dismissed. However, liberty is granted to the petition to challenge the aforenoticed order dated 29.05.2023, in accordance with law, if so advised.

July 14, 2023
Harish

(VIKAS SURJ)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No