

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-210-2024 (O&M)

Pardeep Singh

.....Petitioner

Vs.

State of UT, Chandigarh

.....Respondent

Reserved On.: 10.04.2024
Pronounced On: 15.04.2024

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Anoop Verma, Advocate
for the petitioner.

Mr. Manish Bansal, PP, UT, Chandigarh.

DEEPAK GUPTA, J.

By way of this petition filed under Section 438 Cr.P.C., petitioner prays for grant of anticipatory bail in case FIR No.71 dated 23.10.2020 under Sections 419, 420, 468, 471, 120-B of the IPC registered at Police Station Sector-49, Chandigarh.

2. Contentions of Ld. Counsel for petitioner were noted on 08.01.2024, when following order was passed by this Court:-

“By way of present petition filed under Section 438 Cr.P.C., petitioner prays for grant of anticipatory bail in case FIR No.71 dated 23.10.2020 registered under Sections 419, 420, 468, 471, 120B IPC at Police Station Sector 49, Chandigarh.

Learned counsel for the petitioner contends that petitioner was earlier granted interim bail by this Court, which was extended from time to time. His interim bail expired on 07.07.2022. However, before the expiry of the period

CRM-M-210-2024 (O&M)

of the interim bail, petitioner was taken in custody on 05.07.2022 in case FIR No.50 of 2021 registered under Sections 420, 120B IPC at Police Station Dharasu, District Uttarkashi, in which case, he was acquitted on 28.03.2023. However, in the meantime, petitioner was declared proclaimed offender in the present case. He then approached Hon'ble Supreme Court by filing SLP (Criminal) Diary No.38829/2023. Although Hon'ble Supreme Court did not grant any relief but at the same time, relegated the petitioner to approach the trial Court concerned and seek appropriate orders and in the meantime, it was directed that no coercive steps shall be taken against him. Petitioner then approached the trial Court but his bail petition was declined vide order dated 08.11.2023.

Learned counsel for the petitioner also contends that later on matter has since been compromised between the parties on 18.12.2023 vide Annexure P.13. Not only this, co-accused has also since been acquitted.

Notice of motion.

Mr. Manish Bansal, PP, UT, Chandigarh along with Mr. Navjit Singh, Advocate for UT, Chandigarh, accepts notice on behalf of the respondent-State.

Learned counsel appearing for UT, Chandigarh has raised serious objection to the fact that since the petitioner has been declared proclaimed offender, therefore, the present petition seeking anticipatory bail does not lie.

Adjourned to 04.03.2024 for filing reply.

Till the next date of hearing, petitioner shall not be arrested. ”

3.1 Learned State counsel has strongly opposed the petition by submitting that petitioner has tried to mislead this Court at every stage. It is contended that after being granted interim bail by this Court in CRM-M-47897 of 2021, petitioner had not surrendered and so, his petition was dismissed on 10.11.2022 (Annexure P-7). Learned State counsel submits that prior to that order, petitioner had already been declared proclaimed person by the Court of Ld. Magistrate on 04.10.2022 (Annexure P-6).

3.2 Petitioner then approached this Court by filing CRM-M-20861-

CRM-M-210-2024 (O&M)

2023, challenging the order dated 04.10.2022 passed by learned Judicial Magistrate First Class, Chandigarh. That petition was dismissed by this Court on 28.04.2023. Petitioner challenged that order before Hon'ble Supreme Court by filing SLP No.38829/2023, which has been dismissed on 03.10.2023 by specifically mentioning that Court was not inclined to grant any relief to the petitioner. However, it was left open to the petitioner to approach the trial Court and seek appropriate orders.

3.3 Learned State counsel pointed out that petitioner then approached the Court of learned Judicial Magistrate First Class, Chandigarh by moving an application for regular bail, which was dismissed. It is argued that once petitioner had applied for regular bail, he was deemed to have surrendered before the Court concerned but despite dismissal of that application for regular bail on 13.10.2023 (Annexure P-11), he then applied for anticipatory bail before the Court of Sessions, which has been declined on 08.11.2023.

3.4 Learned State counsel submits that once the petitioner was declared proclaimed person and that order has been maintained up to Hon'ble Supreme Court, he is not entitled for anticipatory bail. Apart from this, as he had applied for regular bail, before making application for anticipatory bail, he is deemed to have surrendered before the Court concerned and for this reason also he does not deserve to be given the concession of anticipatory bail.

4. On the other hand, learned counsel for the petitioner has drawn attention towards Annexure P-4, which is the copy of the judgment dated 28.03.2023 passed by learned Judicial Magistrate First Class, Uttarkashi, which would indicate that petitioner was taken into custody in that case on

CRM-M-210-2024 (O&M)

05.07.2022 and he was released after his acquittal on 28.03.2023. Ld. Counsel submits that when the petitioner was declared proclaimed person on 04.10.2022 in the present case by learned Magistrate, he was in custody in a separate case pending before learned Judicial Magistrate First Class, Uttarkashi. It is also contended that vide compromise deed dated 18.12.2023 (Annexure P-13), matter has already been compromised between petitioner and complainant Ashok Kumar Yadav. Besides, co-accused Sandeep has already been acquitted of the charge vide judgment dated 22.12.2023 (Annexure P-12).

5. Annexure P-4, judgment dated 28.03.2023 passed by learned Judicial Magistrate First Class, Uttarkashi had already come into existence, when petitioner had approached this Court by filing CRM-M-20861-2023, challenging the order dated 04.10.2022 passed by learned Judicial Magistrate First Class, Chandigarh, whereby he was declared PO. That petition was dismissed by this Court on 28.04.2023. Petitioner challenged that order before Hon'ble Supreme Court by filing SLP No.38829/2023, which has been dismissed on 03.10.2023 by specifically mentioning that Court was not inclined to grant any relief to the petitioner, though it was left open to the petitioner to approach the trial Court and seek appropriate orders. Petitioner then approached the Court of learned Judicial Magistrate First Class, Chandigarh seeking regular bail, which was dismissed on 09.10.2023.

6. I agree with the contention of Ld. State Counsel that once the petitioner had applied for regular bail, he was deemed to have surrendered before the Court concerned. However, despite dismissal of that application for regular bail on 13.10.2023, he again applied for anticipatory bail before the

CRM-M-210-2024 (O&M)

Court of Sessions, which has been declined on 08.11.2023, which did not lie. Petitioner can not be given any benefit of the fact that after dismissal of his SLP before Hon’ble Supreme Court, matter has since been compromised between the parties on 18.12.2023 vide Annexure P13 or that co-accused has also since been acquitted.

7. Consequent to above discussion, this court is not inclined to grant the benefit of anticipatory bail to the petitioner.

Dismissed.

(DEEPAK GUPTA)
JUDGE

April 15, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No