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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 2307/2023**

DEEKSHA CHOPRA

..... Applicant

Through: Mr.Chandan Bhatia,
Mr.Maneesh Kumar, Advs.

versus

STATE OF DELHI & ANR.

..... Respondents

Through: Mr.Aman Usman, APP with
SI Rooma Yadav.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **16.01.2024**

CRL.M.A. 17997/2023

1. This application has been filed seeking Anticipatory Bail in FIR No.0944/2022 registered at Police Station: Paschim Vihar West, Outer District, Delhi, under Section 174A of the Indian Penal Code, 1860 (in short, 'IPC').

2. The learned counsel for the applicant admits that the applicant has already been declared as a Proclaimed Offender (PO) under Section 82 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), vide order dated 31.10.2022 passed by the learned Metropolitan Magistrate, Tis Hazari Courts, Delhi, in CC no.14414/2018. It is pursuant to the said order that the above FIR has been registered.

3. The learned counsel for the applicant submits that as the original proceedings were complaining of a violation of Section 138 of the Negotiable Instruments Act, 1881 (in short, 'NI Act') and there were valid reasons for the applicant being unable to appear before the



learned Trial Court in the said case, inasmuch as, the father-in-law of the applicant had expired on 23.09.2022 and the applicant was busy in his last rituals, the applicant be granted anticipatory bail.

4. He submits that pursuant to the *interim* protection granted by this Court vide its order dated 17.07.2023, the applicant has duly joined the investigation.

5. On the other hand, the learned APP, placing reliance on the judgment of the Supreme Court in ***Lavesh v. State (NCT of Delhi)***, (2012) 8 SCC 730, submits that when the accused is declared as a PO, there is no question of grant of anticipatory bail to him. He also places reliance on the judgment of the Supreme Court in ***Prem Shankar Prasad v. State of Bihar***, (2022) 14 SCC 516.

6. In rejoinder, the learned counsel for the applicant, placing reliance on the judgment of the Allahabad High Court in ***Udit Arya v. State of U.P.***, 2023 SCC OnLine All 158, submits that there is no hard and fast rule prohibiting the release of the applicant on anticipatory bail even in cases where the applicant has been declared as a PO.

7. I have considered the submissions made by the learned counsels for the parties.

8. In ***Lavesh*** (supra), the Supreme Court has observed 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.”

9. In ***Prem Shankar Prasad*** (supra), the Supreme Court, placing reliance on its earlier judgment in ***State of Madhya Pradesh v. Pradeep Sharma***, (2014) 2 SCC 171, has observed as under:

“10.3. In State of M.P. v. Pradeep Sharma [State of M.P. v. Pradeep Sharma, (2014) 2 SCC 171], it is observed and held by this Court that if anyone is declared as an absconder/proclaimed offender in terms of Section 82CrPC, he is not entitled to relief of anticipatory bail. In paras 14 to 16, it is observed and held as under : (SCC pp. 175-76)

“14. In order to answer the above question, it is desirable to refer to Section 438 of the Code which reads as under:

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The above provision makes it clear that the power exercisable under Section 438 of the Code is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his liberty.

xxxxx

16. Recently, in Laves v. State (NCT of Delhi), this Court (of which both of us were parties) considered the scope of granting relief under Section 438 vis-à-vis 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 :

xxxxx

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.”

10. A reading of the above would clearly show that where a person has been declared as an Absconder / PO in terms of Section 82 of the Cr.P.C., he is not entitled to relief of anticipatory bail.

11. In *Udit Arya* (supra), the proceeding under Section 82 of the Cr.P.C. were still pending. The said judgment, therefore, cannot come to the aid of the applicant who already has been declared as a PO and as a result thereof, FIR under Section 174A of the IPC already stands registered against the applicant.

12. A mere joining of the investigation pursuant to the *interim* protection granted by this Court would also not come in the aid of the applicant because of the specific bar on grant of anticipatory bail, which has been mentioned by the Supreme Court in the above referred judgments.

13. It is also important to note that the applicant has not challenged the order declaring him as a PO.

14. In view of the above, I find no merit in the present application. The same stands dismissed.

NAVIN CHAWLA, J

JANUARY 16, 2024/RN

AT LATER STAGE

At a later stage, the learned counsel for the applicant mentions that the applicant had in fact filed a Revision Petition, being Crl.Rev. No.418/2022, before the Court of the learned Sessions Judge against



the order dated 31.10.2022, which was dismissed as withdrawn on 14.09.2023. In my opinion, the same would not change the position of the applicant inasmuch as, with the withdrawal of the said petition, the proclamation of the applicant as a proclaimed offender stood confirmed. It is not stated that there is any challenge to the said order pending before any competent Court of law.

NAVIN CHAWLA, J

JANUARY 16, 2024
RN/ss

[Click here to check corrigendum, if any](#)