



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

101

CRM-M-574-2025

Date of decision: February 20<sup>th</sup>, 2025

Mohammad Rafi

.....Petitioner

Versus

State of Haryana

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Sandeep Kumar, Advocate  
for Mr. G.C. Shahpuri, Advocate  
for the petitioner.

**MANJARI NEHRU KAUL, J.**

Petitioner is seeking the concession of anticipatory bail in  
FIR No.326 dated 27.02.2022 under Section 174-A of the IPC  
registered at Police Station Shivaji Nagar, Gurugram.

2. On 10.01.2025, the following order was passed:

*“On a pointed query put to learned counsel for the petitioner as to how the instant petition under Section 482 of BNSS, 2023 was maintainable since the petitioner admittedly is a proclaimed person, he, in support, has placed reliance upon the order of Hon’ble Supreme Court passed in Asha Dubey Versus The State of Madhya Pradesh, decided on 12.11.2024; it has been urged by the learned counsel that the Supreme Court held that it was not necessary that in all cases there was to be a total embargo on considering the application for the grant of anticipatory bail; the circumstances of each case, nature of the offence and the background based on which a person had been declared a proclaimed offender could also to be considered while deciding upon the maintainability of an application under Section 482 of BNSS, 2023 in the*

*case of a proclaimed offender/proclaimed person.*

*On a further query put to learned counsel as to whether the petitioner was aware about the pendency of the complaint against him under Section 138 of the Negotiable Instruments Act (for short, NI Act), he has categorically replied in the negative.*

*On a further query as to whether the petitioner was in receipt of the summoning order in the complaint filed under Section 138 of NI Act, he has yet again replied in the negative and has submitted that the petitioner was unaware about the pendency of criminal complaint against him as incorrect address had been given.*

*Let the counsel for the petitioner place on record a copy of the criminal complaint and all the zimni orders, if any, after the learned trial Court had taken cognizance of the complaint.”*

3. Despite ample opportunities granted by this Court, the petitioner has failed to comply with the order dated 10.01.2025. Even on the previous two dates of hearing, adjournments were sought under the pretext of placing the necessary documents on record. However, to date, neither the zimni orders nor any substantial explanation for non-compliance has been furnished.

4. The petitioner was declared a proclaimed person on 11.02.2022. The contention of the learned counsel for the petitioner that the petitioner was unaware of the proceedings under Section 138 of The Negotiable Instruments Act is untenable, particularly when he is seeking anticipatory bail in an FIR registered under Section 174-A of the IPC, which stems directly from the petitioner's non-appearance in the said complaint case. The plea of ignorance is further contradicted by

paragraph 2 of the present petition, wherein an extract from the complaint under Section 138 of The Negotiable Instruments Act has been reproduced, despite the claim of the petitioner that he has not received any copy of the said complaint.

5. Although there is no absolute bar on granting anticipatory bail to a proclaimed offender, such discretion has to be exercised in the light of the conduct of the applicant, the nature of the offence, and the circumstances leading to the declaration of the accused as a proclaimed offender. In the present case, the continued non-compliance, evasive stance, and failure to place necessary documents on record, despite repeated opportunities indicate a lack of *bona fides* on the part of the petitioner.

6. In view of the foregoing, no ground is made out to extend the concession of anticipatory bail to the petitioner.

7. Accordingly, the instant petition stands dismissed.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

February 20<sup>th</sup>, 2025

Puneet

(MANJARI NEHRU KAUL)  
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No