

In the Court of Sh. Lalit Kumar Singla,
Additional Sessions Judge, Vacation Judge,
Jalandhar. (UID No. PB0104).

CIS Number	BA/1924/2022
CNR number	PBJL01-005937-2022
Date of Instt:	23.05.2022
Date of Order	13.06.2022

Dalwinder Kumar @ Ghuggi @ Dalwinder, aged about 31 years, son of Sh.Jeewan Lal resident of Village Dialpur, Tehsil Phillaur, District Jalandhar.

..... Applicant/accused

Versus

State of Punjab

...Respondent.

FIR No.376 dated 29.10.2019
Under Section 379-B IPC
Police Station Phillaur, Jalandhar.

First bail application under Section 438 Cr.P.C.

Present : Sh.Kiran Kumar, Advocate for applicant-accused.
Sh. APS Dhillon, Addl. PP for the State.

ORDER:

1. This order of mine shall dispose of an application seeking bail under Section 438 Cr.P.C. moved by applicant-accused Dalwinder Kumar @ Ghuggi @ Dalwinder, in the above noted case.
2. Notice of the bail application was given to State of Punjab, upon which learned Additional Public Prosecutor for State has opposed bail application.
3. Concisely stated that on 29.10.2019, complainant Randeep

Kaur along with her daughter Baljot Kaur were going to Apra to purchase cloth etc. Time was around 11.30 a.m. when they reached just a head of the shop of Chaman Lal Cloth Merchant, a youth came from their back and fled away after snatching purse containing Rs.4000/- and a mobile phone make Nokia with Sim No.99157-21255. Now his name has been revealed as Dalwinder Kumar @ Ghuggi son of Jeewan Lal, resident of Dialpur, P.S. Phiallur.

During the course of investigation, accused did not subject to the process of law and ultimately was declared as proclaimed offender vide order dated 02.12.2020.

4. Learned counsel for the applicant-accused vehemently contended that applicant-accused has been falsely implicated in the alleged crime on the basis of suspicion. He never received process from the Police Station. Still he is ready to join the investigation. He may be extended the benefit of pre-arrest bail.

5. On the contrary learned Additional PP for the State submitted that the proclaimed offender is not entitled to concession of pre-arrest bail.

6. Heard. File perused. Vide order dated 02.12.2020, accused Dalwinder Kumar @ Ghuggi was declared as Proclaimed Offender. Since the registration of impugned FIR dated 29.10.2019, applicant-accused has not subjected to process of law. In citation of law titled as Iqbal Singh Sabharwal and another versus State of Punjab and another 2015(3) RCR (Criminal) 274, Hon'ble Punjab and Haryana High Court has

categorically observed that “Anticipatory bail- Proclaimed offender-absconder- If any one is declared as absconder/ proclaimed offender in terms of Section 82, Criminal Procedure Code, he is not entitled to the relief of anticipatory bail”; in a citation of law titled as Lovesh versus State (NCT of Delhi) 2012(4) RCR (Criminal) 240, Hon’ble Supreme Court has categorically observed that “When a person against whom a warrant had been issued and had 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 to the relief of anticipatory bail”; In a citation of law by Hon’ble Delhi High Court titled as Gurvinder Singh versus State & Anr 2010(3) RCR (Criminal) 606, it has been observed that “Accused absconded and declared proclaimed offender under Section 82 Criminal Procedure Code- His application for anticipatory bail rejected- The proper course for him would be to surrender before concerned Court and seek regular bail instead of seeking anticipatory bail”; in a citation of law by Hon’ble Jharkhand High Court titled as Gopal Singh & Ors versus The State of Jharkhand 2015(39) RCR (Criminal) 185, it has been observed that “Petitioner’s anticipatory bail was refused on the ground that process under Section 82 was issued- Once an accused was declared a proclaimed offender in terms of Section 82, he is not entitled to relief of anticipatory bail- Application not maintainable- Held, anticipatory bail at this stage dismissed; in a citation of law, Hon’ble Punjab and Haryana High Court titled as Kewal Singh versus State of Punjab CRM-M-12286-2015 decided on 27.04.2015, referred the

citation of law by Hon'ble Supreme Court of India titled as **State of Madhya Pradesh vs. Pardeep Sharma** 2014(1) RCR (Criminal) 269, wherein it has been observed that "a proclaimed offender is not entitled for anticipatory bail without submitting to the process of law".

7. Being proclaimed person, applicant-accused is not entitled to the concession of anticipatory bail, because the power under Section 438 Cr.P.C. is of an extraordinary character and must be exercised sparingly and only in exceptional circumstances.

8. With these observations, I find the application devoid of any merit and the same is declined. However, applicant-accused is directed to make a surrender before the learned trial Court/successor Court within 10 days and to file bail application, upon which learned trial court may consider the special circumstances for non-appearance of accused. File be consigned to the Record Room.

Pronounced

Dated:13.06.2022

(Lalit Kumar Singla)
Additional Sessions Judge,
cum Vacation Judge,
Jalandhar UID No. PB00104.

manjit singh*