

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-31619 of 2016

Date of Decision: 18.10.2016

Lal Singh

.....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Jaswinder Singh Grewal, Advocate
for the petitioner.

ANITA CHAUDHRY, J (ORAL)

This is the second petition filed by the petitioner seeking anticipatory bail. The petitioner has been summoned under Section 376/511 and 354 IPC besides the other accused.

Counsel for the petitioner has placed on record order passed by the Co-ordinate Bench on the first application and it reads as under:-

“Learned counsel prays for withdrawal of the present petition to enable the petitioner to appear before Court below and move an application for grant of bail.

After hearing learned counsel for the petitioner, the present petition is disposed of with direction that if the petitioner appears before learned Court below on or before the date fixed and moves an application for grant of bail, the same shall be disposed of as early as possible preferably within seven days.”

The above order was passed by the Co-ordinate Bench on 22.12.2015. The petitioner failed to surrender before the Court below nor

applied for bail and after nine months he has again approached this Court with this application.

Counsel for the petitioner sites '*Yuvraj Gaud versus State of Madhya Pradesh and another 2005(1) R.C.R. (Criminal) 618*', '*Runu Roy versus State of Assam 2006 (37) AIC 742*', '*Imratlal Vishwakarma versus State of Madhya Pradesh 1997 (1) Crimes 289*', '*Ganesh Raj versus State of Rajashtan and others 2005 (3) R.C.R. (Criminal) 30*', '*Prahlad Singh Bhati versus N.C.T., Delhi 2001(2) R.C.R. (Criminal) 377*' and '*Sri Sudip Sen versus The State of West Bengal 2012 (7) R.C.R. (Criminal) 12*' and urges that the second application is maintainable.

Counsel for the petitioner specifically refers to the D.B. judgment of Madhya Pradesh High Court namely *Imratlal Vishwakarma's* case (supra) and refers to para 11 and 12 of the judgment to support his submissions. The counsel urges that the offence was triable by the Sessions Court and had the petitioner appeared before the Court below, he would have been taken into custody and bail would not have been allowed to him.

It is necessary to notice the grounds taken by the petitioner in this petition.

The petitioner has pleaded that he is old and 68 years old and is getting treatment for Angina. It is pleaded that the first petition was withdrawn on 22.12.2015 and since he remains ill and if he is sent behind bars, he would not be able to get treatment and, therefore, anticipatory bail should be allowed to him.

The petitioner had himself withdrawn the petition for anticipatory bail and had stated that he would appear before the Court below and move an application for bail. The Co-ordinate Bench had disposed of

the petition giving him liberty to approach the Court below and direction was given to the Court to dispose of the application preferably within seven days. The petitioner after withdrawal of the application failed to approach the Court below and has come up again asking for bail. Once he had withdrawn the petition for anticipatory bail and had given the undertaking, he could not approach this Court again. There are no fresh grounds. The petitioner is avoiding his appearance before the Court below. It could be that by now the proceedings under Section 82 Cr.P.C. may have been finalized. Earlier his application had been dismissed by the Sessions Court. He approached this Court but chose to withdraw the application. He cannot again approach this Court with the same prayer for the second time without there being any change in the facts or circumstances or subsequent events.

Petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

October 18, 2016
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No