

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-43064 of 2016
Date of Decision: 07.12.2016**

Avtar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

ANITA CHAUDHRY, J (ORAL)

The second petition has been filed by the petitioner under Section 438 Cr.P.C. for anticipatory bail in case FIR No. 66 dated 8.12.2015, registered under Sections 306, 304-B, 120-B IPC, Police Station Ghanie Ke Bangar, Police District Batala, District Gurdaspur.

The first application on merits has been dismissed on 30.3.2016 vide Annexure P-8.

Counsel for the petitioner contends that after the dismissal of his application under Section 438 Cr.P.C. the police had not filed challan against him and his name was placed in column No. 2 and now he has been summoned under Section 319 Cr.P.C. and he is ready to appear before the Court below.

The counsel was asked to make his submissions regarding the maintainability of the second petition. Counsel for the petitioner placed

2005(1) RCR (Crl.) 703 (SC) wherein it was observed as under:-

“25. In the ultimate analysis, placing reliance on the ratio indicated in Kalyan Chandra Sarkar's case (supra), we hold that second or subsequent bail application under Section 438 Criminal Procedure Code can be filed if there is a change in the fact-situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete. This is the limited area in which an accused who has been denied bail earlier, can move a subsequent application. Second or subsequent anticipatory bail application shall not be entertained on the ground of new circumstances, further developments, different considerations, some more details, new documents or illness of the accused. Under no circumstances the second or successive anticipatory bail application shall be entertained by the Section Judge/Additional Sessions Judge.”

The second application for anticipatory bail can be filed only on limited grounds. The first application filed by the petitioner had been dismissed on merits. It is another matter that the police did not file the challan against the petitioner. The trial Court has now summoned the petitioner. The second bail application cannot be entertained on further developments or on new grounds. It is held that the second petition for anticipatory bail is not maintainable.

This petition is dismissed.

**(ANITA CHAUDHRY)
JUDGE**

December 07, 2016
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No