

101.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-17719-2017

Date of decision:22.08.2017.

ANKIT

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Parminder Singh, Advocate,
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.288 dated 10.09.2016 under Sections 323, 506, 307, 34 IPC, registered at Police Station Nissing, District Karnal.

Learned counsel for the petitioner states that the allegation against the petitioner is that he has given a *danda* blow to the injured which hit him on the mouth. He further states that earlier the petitioner approached this Court in order to get anticipatory bail by way of CRM-M-5466-2017 and on 03.03.2017, this Court passed the following order:-

“CRM No.7108 of 2017

Prayer in the application for amending the head note and prayer clause of the main petition for adding offence under Section 325 IPC is allowed.

Necessary amendments as prayed for be carried out by the Registry.

Application disposed of.

Main Case

Instant petition has been filed under Section 438 Cr.P.C. seeking concession of pre-arrest bail to the petitioner in case FIR No.288 dated 10.09.2016, under Sections 323, 325, 506, 307 and 34 IPC, registered at Police Station Nissing, District Karnal.

Having argued the matter at some length counsel prays for withdrawal of the present petition.

Prayer is allowed.

Dismissed as withdrawn.”

Learned counsel for the petitioner has argued that aforesaid petition was not dismissed on merits rather it was dismissed as withdrawn. He has placed reliance on the judgment of Hon'ble Apex Court in **Rani Dudeja Versus State of Haryana-2017(4) Scale 524** to contend that when application of an accused seeking anticipatory bail is dismissed as withdrawn, second application for anticipatory bail is not barred by *res judicata*. He has argued that since the earlier bail applicaiton was not dismissed on merits and was withdrawn in the given situation, present application is maintainable. Further, during the pendency of present petition, the matter has otherwise been compromised between the parties.

On the other hand, learned State counsel, on instructions from ASI Ranbir Singh, states that the spirit of order dated 03.03.2017 passed in CRM-M-5466-2017 itself shows that it was in the situation when the petitioner failed to convince the court that he opted to withdraw the anticipatory bail application.

I have heard learned counsel for the parties.

Having recourse to the judgment passed in **Rani Dudeja's** **case** (supra) and considering the fact that the matter has been compromised between the parties, present petition is allowed and the petitioner is admitted on anticipatory bail subject to his furnishing fresh bail bonds and surety bonds to the satisfaction of the trial Court.

(HARI PAL VERMA)
JUDGE

22.08.2017

sanjeev

Whether speaking/reasoned

Yes/No.

Whether Reportable:

Yes/No.