

SHIVANI GUPTA
2020.08.21 17:06

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

Crl. Misc. M-23819 of 2020
Date of decision: 21.08.2020

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Rohtas @ Gona

....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. D.S. Rawat, Advocate,
for the petitioner.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The present second petition has been filed for grant of anticipatory bail in FIR No. 95 dated 07.06.2020 under Sections 323 and 506 IPC (Sections 325 and 308 IPC added later on), P.S. Bilaspur, District Yamuna Nagar.

The first bail petition filed by the petitioner was dismissed on 30.07.2020 (Annexure P-3). The grounds which weighed with this Court are as under:-

“Counsel for the State and the complainant have rightly pointed out that it was in peculiar facts and circumstances where anticipatory bail had been granted by the Court and thereafter non-bailable offence had been added. In the present case, as noticed, the petitioner is the sole accused and is responsible for causing fracture on the head of the complainant. The necessary investigation is required as to what was the motive as such to cause injuries on the person of the

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complainant who was just passing by and going to shop at 7.00 a.m. and whether the injuries were caused at the instance of some other person. The said facts can only be investigated by way of custodial interrogation and not if the petitioner has the benefit of the anticipatory bail.

In such circumstances, this Court is of the opinion that no case is made out for grant of anticipatory bail to the petitioner and the present petition is accordingly dismissed.”

Counsel for the petitioner has now relied upon a certificate dated 11.08.2020 (Annexure P-4) to show that the petitioner was suffering from Manic Depressive Psychosis for the last 8-9 years and, thus, sought to bring up the ground for filing the second bail application.

The said certificate shows that the petitioner is suffering from the said disease for the past 8-9 years. Nothing has been brought on record to show that there was any treatment as such being received by the petitioner prior to the lodging of the said FIR or before the anticipatory bail petition had been dismissed. The Full Bench judgment of the Rajasthan High Court i.e. ***Ganesh Raj vs. State of Rajasthan and others, 2005 Crl. Law Journal 2086*** has been relied upon on the maintainability of the second bail application. The relevant paragraphs read thus:-

“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 Cr.P.C.](#) 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 Crl. Misc. M-23819 of 2020

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.”

Perusal of the above would go on to show that there is no change in fact situation or in law, which would require the earlier finding to be modified. Rather, Full Bench held that second or subsequent anticipatory bail applications are not to be entertained on the ground of new circumstances which include the filing of new documents or illness of the accused, which is now sought to be done in the present case.

In such circumstances, no case is made out to entertain the present bail application as the first order dismissing the petition is a self speaking order.

Accordingly, the present petition stands dismissed.

21.08.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No