

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

CRM-M-26781-2020

Date of decision: 22.9.2020

Talwinder Singh

.....Petitioner.

vs.

State of Punjab

.....Respondent.

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Naresh Kumar, Advocate, for the petitioner.

Mr. Gaurav Garg Dhuriwala, Senior Deputy Advocate
General, Punjab.

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Sanjay Kumar, J. (ORAL)

By way of this second petition filed under Section 438 Cr.P.C., the petitioner seeks grant of anticipatory bail in FIR No. 125 dated 12.10.2019 on the file of Police Station Longowal, District Sangrur, registered under Sections 420 and 120-B IPC along with Sections 13 of the Punjab Prevention of Human Smuggling Act, 2012. The petitioner is one of the two named accused in the said FIR, the other being his wife.

The first anticipatory bail petition filed by the petitioner, along with the co-accused, his wife, was dismissed by this Court on 16.7.2020, insofar as the petitioner was concerned. Perusal of the said order reflects that this Court took note of the prosecution's case against the accused to the effect that they had fraudulently received monies from the complainant under the pretext of sending him abroad. This Court opined that custodial interrogation of the petitioner would be utmost necessary and dismissed his plea while granting anticipatory bail to the co-accused, his wife, on conditions.

While so, the petitioner filed the present second anticipatory bail petition. Therein, he stated that though he was not admitting the claim of the complainant that a sum of ₹ 2,70,000/- had been paid to the accused, he was ready to return ₹ 1.00 lakh to the complainant to show his *bonafides*. This offer on his part is stated to be a 'changed circumstance' warranting presentation of this second anticipatory bail petition.

However, in the light of the law laid down by a learned Judge of this Court in '*Rajwinder Singh vs. State of Punjab*' [2015 SCC Online P& H 14287], a second anticipatory bail petition would not be maintainable until and unless there is a material change in the circumstances in favour of the petitioner. The learned Judge relied upon an earlier judgment of this Court in '*Hardip Singh vs. State of Punjab*' [2015 (3) RCR (Crl.) 138], which, in turn, made reference to the Full Bench judgment of the Calcutta High Court in '*Maya Rani Guin vs. State of West Bengal*', [2003 (1) RCR (Criminal) 774], which also held to the same effect. Significantly, the Full Bench had observed that a second application for anticipatory bail would not be maintainable even if new circumstances develop after rejection or disposal of the earlier application.

In the light of the aforestated precedents which have binding force, Mr. Naresh Kumar, learned counsel for the petitioner, was asked to address the issue of maintainability of this second anticipatory bail petition. Thereupon, the learned counsel sought to place reliance upon the

Full Bench judgment of the Rajasthan High Court in '*Ganesh Raj vs. State of Rajasthan and others*' [(2005) 1 CrL. LR (Raj) 613]. Therein, the Full Bench of the Rajasthan High Court observed that a second anticipatory bail petition would be maintainable if there is a change in the factual situation or in law which requires the earlier view being interfered with or where the earlier findings have become obsolete. *Per* the Full Bench, this is the limited area in which an accused who has been denied bail earlier can move a subsequent application. The Full Bench categorically held that a second or subsequent anticipatory bail application should not be entertained on the ground of new circumstances, further developments, different considerations, some more details, new documents or illness of the accused.

The observations of the Rajasthan High Court are of no avail to the petitioner. The petitioner only cites his willingness to deposit a sum of ₹ 1.00 lakh in proof of his *bonafides* as a 'changed circumstance'. However, the Rajasthan High Court also made it clear that on the ground of 'new circumstances' a second anticipatory bail petition cannot be entertained. The change in the approach of the petitioner, whereby he now wants to pay part of the sum claimed by the complainant as proof of his bonafides, which option was available to him earlier also, is only a 'new circumstance'.

That apart, the law laid down by this Court in *Hardip Singh* and thereafter, in *Rajwinder Singh*, referred to *supra*, would be binding on this Court and no grounds are made out presently to disagree with the view taken in the said decisions.

This second anticipatory bail petition is accordingly
dismissed on the ground of maintainability.

(SANJAY KUMAR)
JUDGE

22.9.2020

preeti
whether speaking
whether reportable

yes
yes