

CRM-M-31398-2021 (O&M)

Through video conference

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

**CRM-M-31398-2021 (O&M).
Decided on: August 19, 2021.**

Ankur

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Vineet Kumar Jakhar, Advocate,
for the petitioner.**

Mr.Deepak Sabharwal, Addl. A.G. Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in FIR No.203 dated 9.5.2021, registered under Sections 120-B, 342, 354, 365, 376-D and 506 IPC, at Police Station City Bahadurgarh, District Jhajjar, Haryana.

Learned counsel for the petitioner has submitted that this is the second application for the grant of anticipatory bail and earlier petition for anticipatory bail filed by the petitioner vide CRM-M-21590-

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2021, was dismissed by this Court vide order dated 29.6.2021 (Annexure P-2). He has submitted that although the present petition for anticipatory bail is the successive bail application but in the earlier petition, it was not highlighted by the petitioner that the petitioner did not remain present at the tents of the Kisan Morcha at Tikri Boarder and was rather working at one Dr.Shroff Charity Eye Hospital, Dariya Ganj, New Delhi and therefore, the plea with regard to alibi could not be taken by the petitioner in the earlier bail petition. He, while referring to para 3 of the petition, has submitted that the petitioner after arrival at the railway junction of New Delhi departed to perform his duties at Dr.Shroff Charity Eye Hospital, Dariya Ganj, New Delhi, and attendance record of the duties of the petitioner has been attached with the petition from 12.4.2021 to 15.4.2021 as Annexure P-3, and therefore, he may be considered for the grant of anticipatory bail.

On the other hand, Mr.Deepak Sabharwal, learned Addl. A. G. Haryana, has submitted that the present successive bail application for the grant of anticipatory bail is not maintainable in view of the judgment of Hon'ble the Supreme Court in **G.R. Ananda Babu Vs. State of Tamil Nadu and another, Criminal Appeal No.84 of 2021 arising out of SLP (Crl.) No.213 of 2021, decided on 28.1.2021.** He has submitted that the grounds taken in the present petition would amount to review of the earlier order whereby the anticipatory bail was dismissed by this Court by passing a detailed speaking order. He has further submitted that even in the present case on 6.8.2021, the learned State counsel had prayed for some time to seek instructions as to whether the tower locations as mentioned in the

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petition were compared or not so as to assist this Court in this regard. He has submitted that the status report has been filed by DSP, Bahadurgarh, District Jhajjar, dated 17.8.2021 and while referring to the status report, the learned State counsel has submitted that the allegations against the petitioner are that during investigation of the case, co-accused Anil Malik suffered a disclosure statement and stated that he and the other co-accused have committed sexual assault and rape and he made a video of rape for blackmailing. He further disclosed that the present petitioner namely Ankur also outraged the modesty by using criminal force and had forcibly kept the deceased girl in the tent and also snatched her money and during investigation it was also found that the petitioner was also staying in the tent where the deceased girl and other accused were staying initially and also tried to blackmail the deceased girl on the basis of video and that they stayed jointly together in the tent along with other co-accused. Furthermore, the information with regard to the tower location has also been taken by the police and the details of the same has been provided in para 7 of the status report. On 14.7.2021, the tower location of the petitioner at 6:45 PM was Tikri Boarder, Haryana and he remained there the whole night and then on subsequent date also his tower location was located at Tikri Boarder.

The learned State counsel has submitted that Dr.Shroff Charity Eye Hospital, Dariya Ganj, New Delhi, has given in writing that the petitioner came in the hospital at 9:44 AM and left the hospital at 3:40 PM on 14.4.2021. He has submitted that the petitioner is absconding till date and his earlier bail petition was dismissed by passing a speaking order by

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this Court and therefore, the present petition is also devoid of any merits and the same be dismissed.

I have heard the learned counsel for the parties.

The petitioner had earlier also filed a petition for the grant of anticipatory bail vide CRM-M-21590-2021, which was dismissed by this Court vide order dated 29.6.2021 (Annexure P-2) by passing a detailed speaking order after considering the submissions of the learned counsel for the parties. The present petition is the successive bail petition and the argument raised by the learned counsel for the petitioner is that in the earlier petition for the grant of anticipatory bail, the plea of alibi could not be taken by the petitioner. The Hon'ble Supreme Court in **G.R. Ananda Babu** (supra) has observed that successive anticipatory bail applications ought not to be entertained unless there is a strong reason regarding change of circumstances. Para 7 of the aforesaid judgment is reproduced as under:-

“7. As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (respondent No.2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge.”

In the present case, there is neither any reason nor any ground to entertain the present petition as there has been no change of

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circumstance after the earlier bail petition for the grant of anticipatory bail was dismissed by this Court vide order Annexure P-2. The plea of alibi taken by the petitioner in the present petition cannot be considered in successive bail application as the earlier bail application was dismissed by passing a detailed speaking order. Consequently, the present petition is dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

August 19, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No