

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

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**CRM-M-32932-2021
Decided on : 24.09.2021**

Akshay

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Rahul Jaswal, Advocate
for the petitioner(s).

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (Oral)

This is the second petition filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner, in case FIR No. 125, dated 04.07.2019, registered under Sections 366, 366A of IPC (added later on Section 376 of IPC and Section 4 of the POCSO Act, 2012), lodged at Police Station Sanoli, District Panipat.

The previous petition seeking concession of anticipatory bail filed by the petitioner was disposed of by this Court vide order dated 17th May, 2021, in the following terms:-

“This petition under Section 438 Cr.P.C is for grant of anticipatory bail to the petitioners in FIR No. 125 dated 04.07.2019 under Section 376 IPC and Section 4 of the POCSO Act registered at Police Station Sanoli, District Panipat.

Learned counsel contends that the petitioners were found innocent during investigation and placed in column

No.2. They are now being sought to be arrayed as accused on the basis of the statement of the victim wherein she levelled allegations against the petitioners of having committed rape upon her. Learned counsel submits that the allegations on the face of it are concocted inasmuch as no such allegation was levelled against the petitioners in the statement recorded under Section 164 Cr.P.C. nor was there any medical evidence to support the allegations of rape. Learned counsel submits that there is a genuine apprehension on the part of the petitioners that they may be arrested and sent to custody when they appear before the trial court on the date fixed. It has therefore been submitted that they be extended the concession of anticipatory bail.

Heard.

A perusal of the statement of the victim recorded under Section 164 Cr.P.C., which has been annexed as Annexure P2, however, reveals that the petitioners were specifically attributed a role in the crime in question by the prosecutrix. It is evident that the learned counsel has tried to mislead this court by making submissions which are contrary to record.

In the aforementioned circumstances, when this court was not inclined to extend the concession of anticipatory bail to the petitioners, a prayer was made by the learned counsel to withdraw the instant petition.

Prayer is allowed. The petition is dismissed as withdrawn.”

On a pointed query put to the learned counsel as to how a second petition under Section 438 Cr.P.C. was maintainable, since no material change in the circumstances had been brought to the notice of this Court, subsequent to the withdrawal of the previous petition on 17th May, 2021, learned counsel has failed to satisfy this Court *qua* the same or to

bring to light any other supervening circumstances.

In the facts and circumstances of the case and keeping in view the nature and gravity of allegations levelled against the petitioner, no ground is made out to extend the extraordinary concession of anticipatory bail to the petitioner.

Petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

September 24, 2021

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*