

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

**CRM-M-46623 of 2021
Date of decision: 12.11.2021**

Bhupinder Singh @ Bhinda

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R. S. Sekhon, Advocate for the petitioner.
Mr. Amit Mehta, Senior DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

This petition is filed for grant of anticipatory bail in FIR No. 24 dated 17.5.2020, under Sections 302, 341, 506, 148, 149 and 449 IPC and Sections 25 and 27 of the Arms Act, 1959 (Sections 212, 216 and 201 IPC and Sections 29 and 30 of the Arms Act, 1959 added later on), registered at Police Station Arif Ke, District Ferozepur.

The petitioner filed application for anticipatory bail before Additional Sessions Judge, Ferozepur. The same was rejected vide order dated 21.10.2021 as not maintainable being a second bail application.

Earlier application under Section 438 Cr.P.C. was dismissed by Additional Sessions Judge, Ferozepur being infructuous taking note of the fact that only Sections 212 and 216 IPC were invoked against the petitioner and the same were bailable. On presentation of supplementary challan, Sections 302, 341, 449, 506, 148, 149, 201 and Sections 25 and 27 of the Arms Act were added. As a result of subsequent development, second petition was filed.

Learned counsel for the State puts in appearance on advance notice.

Heard learned counsel for the parties at some length and

perused the paper book.

On perusal of both the orders passed under Section 438 Cr.P.C., it is forthcoming that application for anticipatory bail has not been decided on merits. The first bail application was disposed of as infructuous as only bailable sections were invoked. The second bail application was held non-maintainable. Considering the fact that the earlier bail application was not decided on merits, learned Additional Sessions Judge erred in holding that the second bail application is not maintainable, more so there were subsequent developments necessitating filing of the bail application under Section 438 Cr.P.C.

In view of the above, the impugned order is set aside and the matter is remitted back to the court below to decide the bail application afresh on merits.

The petition is disposed of.

However, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

**[AVNEESH JHINGAN]
JUDGE**

12th November, 2021
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| 1. Whether speaking/ reasoned | : | Yes /No |
| 2. Whether reportable | : | Yes /No |