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

CRM-M-10784-2022

Date of decision : 14.03.2022

Ranjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is second petition filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.176 dated 26.08.2021 registered under Section 420 of the Indian Penal Code, 1860 at Police Station Dinanagar, District Gurdaspur.

At the outset, it would be relevant to note that after the dismissal of the anticipatory bail by the Additional Sessions Judge, Gurdaspur vide order dated 13.10.2021 (Annexure P-2), the petitioner had earlier approached this Court by way of filing petition bearing No.CRM-M-52055-2021. The said case came up for hearing on 14.12.2021, on which date, this Court had passed the following order:-

“Learned counsel for the petitioner inter alia contends that the petitioner is ready to pay an amount of Rs.2,10,000/- to the complainant, but however needs some time for the same. It is further argued that in order to show his bona fide, a draft amounting to Rs.1,00,000/- in the name of Gurdeep Kaur-complainant would be produced by the petitioner on the next date of hearing.

Notice of motion.

On asking of the Court, Mr. Sukhbeer Singh, AAG, Punjab, appears and accepts notice on behalf of State of Punjab and seeks time to get instructions.

Adjourned to 17.01.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

It is made clear that in case, the said draft is not produced on the next date of hearing, the present petition would be dismissed.”

A perusal of the above order would show that primarily, on the basis of the statement of the petitioner to the effect that he was ready to pay Rs.2,10,000/- to the complainant and was also ready to furnish a demand draft amounting to Rs.1,00,000/- in the name of the complainant, on the next date of hearing, notice of motion was issued and interim protection was granted to the petitioner. It was specifically ordered therein that in case, the said demand draft was not produced on the next date of hearing, the petition would be dismissed. The same was observed in view of the allegations

levelled against the petitioner which were to the effect that he had taken the said money on the pretext of getting a job for the son of the complainant in Punjab Mandi Board Department.

On 17.01.2022, when the matter came up for hearing and the petitioner had not complied with the abovesaid order and had also not brought the demand draft as had been directed, and this Court was not inclined to grant anticipatory bail to the petitioner, learned counsel for the petitioner, who had filed the first anticipatory bail, in order to avoid a detailed adverse order being passed, sought withdrawal of the said petition. Order dated 17.01.2022 passed by this Court is reproduced hereinbelow:-

“This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.176 dated 26.08.2021, under Section 420 IPC, registered at Police Station Dinanagar, District Gurdaspur.

After arguing for some time, learned counsel for the petitioner seeks permission of this Court to withdraw the present petition.

In view of the statement made by learned counsel for the petitioner, the present petition is dismissed as withdrawn, as prayed for.”

The petitioner, instead of surrendering, has now, chosen to file the present second anticipatory bail application through a different counsel. A perusal of the petition would show that it has not even been remotely stated therein as to on what exceptional basis, the present second anticipatory bail petition has been filed. In fact, since the date of registration of FIR i.e. 26.08.2021 till the present date, the petitioner has been playing hide and seek with the Court and is absconding and evading the process of law.

This Court in the order dated 04.03.2022 passed in CRM-M-9107-2022 titled as Bhunesh Vs. State of Haryana, had noticed this unfortunate pendency tendency growing among unscrupulous litigants, of first arguing the anticipatory bail application and when the Court is not inclined to grant the same, then withdrawing the same, in order to avoid passing of an adverse order and thereafter, after few days without any justification, again filing the second anticipatory bail. Relevant portions of the said order dated 04.03.2022 are reproduced hereinbelow:-

“xxx xxx

This Court is of the view that there is a stark difference between filing of subsequent/successive regular bail applications or for suspension of sentence and filing of subsequent/successive anticipatory bail applications. In the case of regular bail applications, where a person is already in custody, any subsequent regular bail application filed, even after the first has been withdrawn, would normally be considered, since, the factum of “further custody” would normally be a changed circumstance. It is always open for an accused who is in custody to show that his further incarceration for some months/years is a changed circumstance, entitling him to regular bail. To exemplify, in case, a person is accused of an offence for which the maximum sentence is 10 years and his first bail application, which was filed after undergoing two years of custody, has been rejected, it would be open for that person to come after a year or after a substantial period of further custody has been undergone by him and the Courts could well grant the concession of bail to the accused on the ground of “period of custody undergone”. In the subsequent regular bail applications, there could be several factors in addition to

long incarceration, which could be raised for instance, it could also be shown that there was a delay in the trial or that some material witness has demolished the case of the prosecution, which would come within the meaning of changed circumstances, so as to grant the relief to the accused therein. Similar would be the position in the case of suspension of sentence. However, the case of anticipatory bail cannot be treated to be on the same pedestal.

Xxx xxx

This Court would also like to take note of the unfortunate trend being adopted by unscrupulous litigants in which, as in the present case, the petition for anticipatory bail is argued and when the Court is about to dismiss the petition, learned counsel for the petitioner, in order to avoid a detailed adverse order, seeks to withdraw the petition and after some days, without any justification, files a second anticipatory bail petition. The same not only wastes the time of the Court, but is also an abuse of the process of the Court and the said practice needs to be curtailed with a heavy hand and accordingly, the present second petition for anticipatory bail is dismissed with costs of Rs.50,000/-. The petitioner is directed to deposit the same with the Haryana State Legal Services Authority within a period of one month from today.”

Thus, the present second anticipatory bail application is not maintainable and deserves to be dismissed on the said ground alone.

This Court has even considered the merits of the case. A perusal of the FIR would show that it was alleged by the complainant that the present petitioner had committed fraud against the complainant and her family members by promising a job in Punjab Mandi Board Department for the complainant's son and the present petitioner had claimed that he had

good connections in the Punjab Mandi Board Department and so he would get the son of the complainant appointed in the same and for the said purpose, he had demanded Rs.2,80,000/-. It was alleged that neither the petitioner had returned the said money nor he had arranged for a job for the son of the complainant and in the year 2017, husband of the complainant had moved an application before SSP and during enquiry of the complaint, in the presence of the police officials, the petitioner had entered into a compromise with the husband of the complainant and agreed to return Rs.2,60,000/-, regarding which one affidavit had also been annexed alongwith the said application. It was further alleged that although Rs.50,000/- was returned but rest of the money had not been returned and thereafter, on 28.08.2017, husband of the complainant died and when they tried to contact the present petitioner, it was learnt that the present petitioner was in custody and would return the said money after being released from the jail. However, the same has not been done. In the present case, neither the abovesaid affidavit, nor the allegations with respect to the said fact have been controverted.

This Court has also noticed that in a large number of cases, poor persons are being duped on the pretext of false promises being made to them regarding their appointment in various Institutes. The present case is one of the said cases. Thus, even on merits, the petitioner has no case.

Keeping in view the abovesaid facts and circumstances, this Court is of the view that the present petition is not maintainable and thus, the same is dismissed with costs of Rs.50,000/-.

The petitioner is directed to deposit costs of Rs.50,000/- within

a period of one month with District Legal Services Authority, Gurdaspur and after depositing the same, produce the receipt regarding the same within the abovesaid period of one month before the Deputy Commissioner, Gurdaspur.

In case, the petitioner does not deposit the said costs of Rs.50,000/- within the abovesaid stipulated period and does not produce the receipt of the same before the Deputy Commissioner, Gurdaspur, then the Deputy Commissioner, Gurdaspur is directed to proceed against the petitioner for recovery of the said amount of Rs.50,000/- as arrears of land revenue.

A copy of this order be sent to District Legal Services Authority, Gurdaspur as well as Deputy Commissioner, Gurdaspur for necessary action.

14.03.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No