

CRM-M-18680-2019

IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

CRM-M-18680-2019
Reserved on: 14.03.2022
Pronounced on: 18.04.2022

Ajay Kumar ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.N. Lohan, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Mr. Aman Bahri, Advocate for respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
1114	25.12.2014	Hisar City, District Hisar	409 & 34 IPC

1. The petitioner, apprehending arrest in the FIR captioned above had come up before this Court for the third time under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 15 of the petition, it is declared that prior to the present bail petition, the petitioner had filed two bail petitions i.e. CRM-M-19828-2015 and CRM-M-47819-2018, both of which were dismissed.
3. The copy of the order passed in CRM-M-17291-2015, decided on 11 Aug 2017, is annexed as Annexure P-5. A perusal of the same reveals that the order is speaking.
4. Unlike successive bail applications under section 439 CrPC in changed circumstances, the filing of successive applications before the same court, under section 438 CrPC, which had been decided earlier by a speaking order, amounts to recalling of the order, which is barred under section 362 CrPC and is legally impermissible.
5. In G.R. Ananda Babu v. State of Tamil Nadu, [Law Finder Doc Id # 1800715], decided on 28.1.2021, a three-judge bench of Hon’ble Supreme Court holds,
- [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

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same Judge.

[8]. To observe sobriety, we refrain from making any further observation, except to observe, that the impugned order, to say the least, is perverse; and also because no prejudice should be caused to respondent No.2 and affect the trial against him.

6. Given above, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for anticipatory bail under section 438 CrPC.

Petition dismissed in aforesaid terms.All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

18.04.2022

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Whether speaking/reasoned: Yes

Whether reportable: **NO.**