

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-25185-2023

Date of Decision: May 18, 2023

GAGANDEEP SINGH @ GAGAN
Versus
STATE OF PUNJAB

..... Petitioner
..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. S.K. Grewal, Advocate for the petitioner.
Mr. Tarun Aggarwal, Sr. D.A.G. Punjab.

HARKESH MANUJA, J. (ORAL)

1. This is second petition filed under Section 438 CrPC, wherein prayer has been made for grant of anticipatory bail in case FIR No.125 dated 10.12.2022 registered under Sections 307, 324, 323, 341, 506, 148 and 149 IPC at P.S. Fatehgarh Churian, Police District Batala, District Gurdaspur.
2. In the present case, the allegations against the petitioner are of having inflicted injury with datar blow on the right elbow of the husband of the complainant namely Ripinjit Singh which hit him on the right elbow. The petitioner earlier approached this Court for grant of anticipatory bail vide CRM-M-6333-2023 which was dismissed as withdrawn vide order dated 28.02.2023. The present petition has been filed with the averments that post withdrawal of the previous petition there has been change in circumstances giving rise to fresh cause in favour of petitioner. Previously similar prayer vide CRM-M-16253 of 2023 was made before this Court, which was withdrawn vide order dated 29.03.2023 with liberty to approach Ld. Sessions Court which even declined to entertain it afresh vide its order dated 21.04.2023.

3. Pointing out the change in circumstances, learned counsel for the petitioner refers to MLR of one Jaimal Singh (P-2 at Page-19) who is otherwise not at all connected with the incident in question that prior to the occurrence in question, the complainant-party had a fight with said Jaimal Singh and injuries upon the person of complainant and her husband were as a result thereof. She further submits that this fact was never in the notice of the petitioner which was material for the consideration of this Court for the purpose of dealing with second anticipatory bail application filed on his behalf.

4. On the other hand, learned State counsel submits that the MLR of Jaimal Singh existed even at the time of withdrawal of the first anticipatory bail application and the petitioner is merely trying to draw benefit of the same so as to invoke the jurisdiction of this Court again. He further points out that the petitioner is involved in six other cases of serious nature and provides the details in the following manner:-

- (i) FIR No.9 dated 01.02.2019 under Sections 326, 324, 323, 427, 339, 506, 148 and 149 IPC (under investigation).
- (ii) FIR No.61 dated 08.07.2017 under Sections 326, 324, 323, 148 and 149 IPC (quashed on 25.01.2018 on the basis of compromise).
- (iii) FIR No.54 dated 08.05.2018 under Sections 341 427, 506, 148 and 149 IPC (quashed on 06.09.2019 on the basis of compromise).
- (iv) FIR No.261 dated 20.12.2019 under Sections 302 and 34 IPC and Arms Act (pending).
- (v) FIR No.7 dated 25.01.2021 registered under Arms Act (pending).

(vi) FIR No.79 dated 26.02.2015 registered under Sections 304-A, 279 and 427 IPC (acquitted)

5. I have heard learned counsel for the parties and gone through the paper-book. I am unable to find substance in the submissions made on behalf of the petitioner.

6. Once the first petition filed on behalf of the petitioner for grant of similar relief i.e. the anticipatory bail was withdrawn vide order dated 28.02.2023 passed in CRM-M-6333-2023, no second petition on behalf of the same person in the same FIR could be entertained especially in view of the fact that there is no change in circumstances. The MLR of Jaimal Singh cannot also come to the rescue of the petitioner as the same cannot be termed to be change in circumstance especially when there is no FIR so far registered by the Investigating Agency on any complaint made by aforesaid Jaimal Singh or the complainant or her husband in the present case. Besides it, even as per the story put forth by Jaimal Singh he only names the sons of injured in the present case and nowhere names the injured-Ripinjeet Singh of having caused injuries to Jaimal Singh. Thus, the incident, which if at all took place between the sons of Ripinjeet Singh cannot be made as an excuse for the purposes of filing this second anticipatory bail application when Ripinjeet was not even involved in the said occurrence.

7. More than that, as has been noticed in a decision rendered by this Court dated 13.03.2023 passed in **CRM-M-40916-2022** titled as **“Manjinder Kaur Vs. State of Punjab”** a Division Bench of this Court while answering a reference on the question “whether a second

anticipatory bail application under Section 438 CrPC is maintainable when the first one filed by the petitioner has been withdrawn” has been answered in the following terms:-

“We have already held that second/subsequent/successive anticipatory bail application would not be maintainable where such an application has been dismissed by the Court on merits by passing a speaking order. Further qua the anticipatory bail application, it can be said that once a first bail application under Section 438 Cr.P.C. stands withdrawn, a second or subsequent bail application would not be maintainable merely on the ground that some new inconsequential and cosmetic change in circumstances has/have come about, further developments such as arrest of co-accused or main accused or bail granted to coaccused, different considerations, some more details, new documents or illness of the accused. It would also not be maintainable on a plea or ground that the Court on the earlier occasion failed to consider any particular aspect or material on record or that any point then available to the accused was not taken, agitated or pressed before the Court.

However, the second/subsequent bail application under Section 438 Cr.P.C. would be maintainable only if there is substantial material and substantive change in the fact situation and circumstances of the case due to subsequent events or in law.”

8. The first petition filed for anticipatory bail was withdrawn when it was on the verge of being dismissed on merits, the Court being not inclined, after having heard the arguments that were advanced. The ground taken for filing the second bail application by the petitioner does not fall within the parameters as laid down in the aforesaid judgment. Even the antecedents of the petitioner of he being involved in number of other cases also forbids me from entertaining the present petition.

9. In view of the aforesaid, second anticipatory bail application filed on behalf of the petitioner stands dismissed.

18.05.2023
tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No

