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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-31359-2023
Date of Decision: 30.06.2023

Akashdeep Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Man Singh Chauhan, Advocate assisted by
Mr. Arshit Goel, Advocate
for the petitioner.

HARSH BUNGER J. (ORAL)

Akashdeep Singh (petitioner) has filed this petition under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in case FIR No.0049 dated 18.10.2022, registered under Sections 323, 341, 506 read with Section 34 of the Indian Penal Code (for short ‘the IPC’) (Section 308 IPC added later on) at Police Station Rawalpindi, District Kapurthala (Annexure P-1).

2. This is the second bail petition filed by the petitioner. The earlier petition has been dismissed as withdrawn vide order dated 20.04.2023 passed in CRM-M-19375-2023, which reads as under:

“Petitioner (Akashdeep Singh) has filed the present petition under Section 438 of the Code of Criminal Procedure seeking grant of anticipatory bail in case FIR No.49 dated 18.10.2022, under Sections 323, 341, 506 read with Section 34

of the Indian Penal Code (Section 308 of the Indian Penal Code, added later on vide GDR No.24 dated 03.11.2022), registered at Police Station Rawalpindi, Tehsil Phagwara, District Kapurthala, Punjab.

After arguing for some time, learned counsel for the petitioner submits that he may be permitted to withdraw the instant petition.

In view of the above, the present petition is dismissed as withdrawn.”

3. The instant second petition has been filed primarily on the ground that the matter has been compromised/settled between the parties and also that the other co-accused have been granted bail.

4. The issue regarding the maintainability of the second bail petition, after the dismissal of the first bail petitions, has been considered by Division Bench of this Court in ***Manjinder Kaur vs State of Punjab (CRM-M-40916-2022*** and other connected matter), decided on 30.01.2023, wherein it has been held as under :-

“12. 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the anticipatory bail application, it can be said that once a first bail application under Section 438 Cr.P.C. stands withdrawn, a second or subsequent bail application would not be maintainable merely on the ground that some new inconsequential and cosmetic change in circumstances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 co-accused, different considerations, some more details, new documents or illness of the accused. It would also not be maintainable on a plea or

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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 or substantive change in the fact situation and circumstances of the case due to subsequent events or in law.”

5. A perusal of the afore-said findings given by the Division Bench of this Court would manifest that once the first bail petition has been dismissed as withdrawn, the second petition would not be maintainable on the ground that bail has been granted to co-accused. Further, the instant petition is also not maintainable, merely on the ground that the petitioner has compromised with the complainant. The change in the approach of the petitioner whereby, he has allegedly compromised with the complainant, which option was available to the petitioner earlier also, can only be termed as a “new circumstance”. In this regard, reference can be made to the judgment rendered in *Talwinder Singh vs State of Punjab 2021(3) R.C.R. (Criminal) 368*.

6. In view of the above, I do not find any merit in the present petition and the same is hereby dismissed.

7. All pending application(s), if any, shall also stand closed.

30.06.2023
Himani

(HARSH BUNGER)
JUDGE

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| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |