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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-32715-2023
Date of Decision: 26.07.2023

Rajesh Kumar @ Rajesh Kumar Singh @ Bobby Singh and another

..... Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Kuldip Singh, Advocate for
Mr. Hoshiar Singh, Advocate
for the petitioners.

Mr. Praveen Chander Goyal, Addl. A.G., Haryana.

HARSH BUNGER J. (ORAL)

Petitioners have filed this second petition under Section 438 of the Code of Criminal Procedure (for short `the Cr.P.C.`) for grant of anticipatory bail in case FIR No.222, dated 06.08.2021, under Sections 406 and 420 of the Indian Penal Code, 1860, at Police Station Kalan Wali, District Sirsa, Haryana.

2. The earlier petition filed by the petitioners seeking anticipatory bail has been dismissed by this Court vide order dated 21.03.2023 passed in **CRM-M-14347-2023.**

3. Learned counsel for the petitioners submits that the instant

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second petition has been filed primarily on the ground that the petitioners are ready and willing to settle the dispute by making payment to the complainant.

4. Per contra, learned State counsel has opposed the prayer for grant of anticipatory bail to the petitioners by submitting that the first bail petitions filed by them, have been dismissed by this Court by way of a speaking order and no changed circumstances have been brought forth by the petitioners so as to maintain this petition. It is submitted that merely the petitioners' readiness and willingness to settle the dispute amicably with the complainant that too after the rejection of the first bail petition, would not constitute a changed circumstance.

5. I have heard learned counsel for the parties and perused the paper book.

6. 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 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.”

7. Further, Hon'ble Supreme Court in the case of **“G.R. Ananda Babu Vs. State of Tamil Nadu and another”, 2021(1) R.C.R. (Criminal) 843** held as under:-

“As a matter of fact, successive anticipatory bail applications ought not 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 same Judge.”

8. Keeping in view the aforestated position, once the first bail petition has been dismissed by way of a speaking order then the second petition would not be maintainable, more so when there are no changes circumstances. Further, the instant petition is also not maintainable, merely on the ground that the petitioners are ready and willing to compromise with the complainant by making the payment. The change in the approach of the

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petitioners whereby, they are ready to compromise with the complainant, which option was available to the petitioners 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.*

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

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

26.07.2023
Himani

(HARSH BUNGER)
JUDGE

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