

2023:PHHC:112781

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

**CRM-M-33926-2023
Date of Decision: 17.07.2023**

Bhag Ram

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

HARSH BUNGER J. (ORAL)

1. Bhag Ram (petitioner) has filed this second petition under Section 438 of the Code of Criminal Procedure seeking grant of anticipatory bail in case FIR No.697 dated 25.11.2001 (Annexure P-1), under Section 307 read with Section 34 of the Indian Penal Code, registered at Police Station Sadar, District Jalandhar.

2. The first bail petition filed by the petitioner (CRM-M-11239-2023) was dismissed as withdrawn vide order dated 25.05.2023 (Annexure P-5) passed by this Court.

3. Learned counsel for the petitioner fairly submits that there are no changed circumstances as far as filing of this second bail petition under Section 438 of the Code of Criminal Procedure, is concerned.

4. I have heard learned counsel for the petitioner and perused the paper book.

5. This is the second bail petition filed by the petitioner. The earlier petition has been dismissed as withdrawn vide order 25.05.2023 (Annexure P-5) passed in **CRM-M-11239-2023**, which reads as under:-

“ Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.697 dated 25.11.2001, registered under Section 307 read with Section 34 of the Indian Penal Code, 1860, at Police Station Sadar, District Jalandhar (Annexure P-1).

2. Status report dated 25.05.2023 by way of affidavit of Sukhwinderpal Singh, PPS, Deputy Superintendent of Police, Sub Division Kartarpur, District Jalandhar (Rural) on behalf of the respondent/State of Punjab is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

3. After arguing for some time, learned counsel for the petitioner prays that she may be permitted to withdraw the present petition.

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 In view of the submission made by learned counsel for the petitioner, present petition is dismissed as withdrawn.”

6. The issue regarding maintainability of the second bail petition, after dismissal of the first one, has been considered by the 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 earlier bail petition has been dismissed as withdrawn vide order dated 25.05.2023 (Annexure P-5) passed by this Court and there are no changed circumstances, as of now, then no ground is made out to grant the concession of anticipatory bail to the petitioner.

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.

17.07.2023

Apurva

(HARSH BUNGER)
JUDGE

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