

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

**CRM-M-40916-2022
Date of Decision: 13.03.2023**

MANJINDER KAUR

....PETITIONER

V/S

STATE OF PUNJAB

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO

Present: Mr. Pankaj Garg, Advocate
for the petitioner.

Mr. Arjun Sheoran, DAG, Punjab.

M.S. RAMACHANDRA RAO, J. (ORAL)

This second petition for anticipatory bail is moved under Section 438 Cr.P.C by the petitioner. Previous application i.e. CRM-M-26496 of 2022 filed by the petitioner before this Court was withdrawn by the petitioner. This Court had sought a reference on the question “whether a second anticipatory bail petition under Section 438 Cr.P.C. is maintainable when the first one filed by the petitioner has been withdrawn” and a learned Division Bench of this Court had answered the said reference on 30.01.2023 in the following terms:-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Section 438 Cr.P.C. stands withdrawn, a second or subsequent bail application would not be maintainable merely on the ground that some new inconsequential and cosmetic change in circumstances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 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 and substantive change in the fact situation and circumstances of the case due to subsequent events or in law.”

In my opinion, the case of the petitioner does not fall within any of the excepted categories mentioned in the order dated 30.01.2023 in CRM-M-4091 of 2022 for entertaining as subsequent anticipatory bail petition under Section 438 Cr.P.C.

Therefore, this Petition is dismissed as not maintainable.

(M.S. RAMACHANDRA RAO)
JUDGE

13.03.2023

priyanka

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No