

Manjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mahir Sood, Advocate
for the petitioner.

Ms. Swati Batra, D.A.G., Punjab (through V.C.).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
13	29.08.2023	E.O. Wing, Vigilance Bureau, Ludhiana	7-A of PC Act, 1988 (Amendment) Act, 2018 and 120-B IPC

1. The petitioner, apprehending arrest in the FIR captioned above had come up before this Court for the second time under Section 438 CrPC seeking anticipatory bail.
2. It is undisputed that prior to the present bail petition, the petitioner had filed a similar bail application under section 438 CrPC which was dismissed vide order dated 19.10.2023. A perusal of the same reveals that the order is speaking. An SLP filed by the petitioner before the Hon’ble Supreme Court was also dismissed on 05.12.2023 in SLP(Crl.) No.15288 of 2023.
3. Unlike successive bail applications under section 439 CrPC in changed circumstances, the filing of successive applications before the same court, under section 438 CrPC, which had been decided earlier by a speaking order, amounts to recalling of the order, which is barred under section 362 CrPC and is legally impermissible.
4. In G.R. Ananda Babu v. State of Tamil Nadu, [Law Finder Doc Id # 1800715], decided on 28.1.2021, a three-judge bench of Hon’ble Supreme Court holds,
- [7]. As a matter of fact, successive anticipatory bail applications ought not to 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]. To observe sobriety, we refrain from making any further observation, except to observe, that the impugned order, to say the least, is perverse; and also because no prejudice should be caused to respondent No.2 and affect the trial against him.

5. In Ramadhar Sahu v. The State of Madhya Pradesh, SLP (Crl) no. 11130-2023, decided on 16-10-2023, while dealing with a bail of an accused who was in custody, held as follows:

[5]. An order for refusal of bail however, inherently carries certain characteristics of an interlocutory order in that certain variation or alteration in the context in which a bail plea is dismissed confers on the detained accused right to file a fresh application for bail on certain changed circumstances. Thus, an order rejecting prayer for bail does not disempower the Court from considering such plea afresh if there is any alteration of the circumstances. Conditions of bail could also be varied if a case is made out for such variation based on that factor. Prohibition contemplated in Section 362 of the Code would not apply in such cases. Hence, we do not think the reasoning on which the impugned order was passed rejecting the appellant's application of bail can be sustained. The impugned order is set aside and the matter is remitted to the High Court. The bail petition of the appellant before the High Court shall revive to be examined afresh by the High Court in the light of our observations made in this order.

6. In the light of the judicial precedents mentioned above and in the given facts and circumstances peculiar to this case, the petitioner fails to justify filing of the second application for anticipatory bail under section 438 CrPC in the same court.

7. Even otherwise, when this court re-assessed the petitioner's case on merits, the nature of allegations and the malicious intent makes the allegations grave and does not make out a case for anticipatory bail.

8. The petitioner's case is also being extracted from the bail petition, which reads as follows:

"That criminal law was brought into motion by Sukhdeep Kaur (hereinafter referred to as the Complainant) wherein it has been alleged that validity of passport of the daughters of the Complainant namely Loverarshdeep Kaur and Khushboo Kaur had expired on 15.03.2022 and passport of both of them were got renewed. In the 10th class Certificate of Khushboo Kaur the spellings of her name are written as Khushboo Kaur, but in her old passport her name is written as Khushbu Kaur due to some inadvertence. In similar manner spellings of the name of Loverarshdeep Kaur are written in her passport as Loverasdeep Kaur whereas in her 10th Class Certificate the spellings of her name are written as Loverusdeep

Kaur. In order to get the passport of her daughters rectified Complainant approached the Petitioner who was working as Travel Agent at Moga and the Petitioner had assured the Complainant that he will get the passport of her daughter rectified as he is having links with the officials in the Passport Office, Ludhiana and he took appointment for this purpose for 26.08.2023, on that date the Complainant alongwith her daughter went to the Passport Office, Ludhiana and made a telephonic call to the Petitioner who told her that he is at Faridkot and provided phone number of one Kamal to the Complainant. Subsequently, co-accused Kamal sent a person to the Complainant and asked her to give Rs.20,000/- as bribe to that person and to send her daughters alongwith him and he will get the entire work done. However, the Complainant and her daughters got their work done at their own level and came out from the Passport Office, Ludhiana at about 4:30 pm. At the time co-accused Kamal made telephonic call to the Complainant and asked her to give Rs. 20,000/- to the person sent by him and on refusal of the Complainant to do so, co-accused Kamal had started threatening the Complainant and again, asked her to give Rs.20,000/- to the Petitioner. On 28.08.2023, co-accused Kamal again made a telephonic call to the Complainant and asked her to give Rs.20,000/- to his person co-accused Sonu Shah. The Complainant recorded entire conversation with regard to the bribe money and then she made complaint at EO Wing, Vigilance Bureau, Ludhiana and also produced audio recording and currency notes of Rs.20,000/- before the Vigilance Officials. Thereafter, trap was laid on the basis of Complaint made by the Complainant which remained successful and co-accused Sonu Shah was apprehended red handed while accepting bribe from the Complainant whereas co-accused Kamal managed to escape from the spot. With these allegations, the present FIR was registered."

9. Thus, the petitioner, who is the main accused and was the mastermind, cannot claim bail on the grounds of parity.

10. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

18.01.2024
Jyoti Sharma

Whether speaking/reasoned: Yes

Whether reportable: **NO.**