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

**CRM-M-3256-2024 (O&M)
Date of decision : 08.02.2024**

Manoj Kumar

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. S.S. Sahu, Advocate,
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

MAHABIR SINGH SINDHU, J.

Second petition under Section 438 of the Code of Criminal Procedure has been filed for grant of pre-arrest bail to the petitioner in FIR No.100 dated 17.05.2023, under Sections 120-B and 379 read with Section 34 of the Indian Penal Code, 1860, registered at Police Station, New Colony, Gurugram.

2. Allegations are that petitioner along with other co-accused hatched a criminal conspiracy and committed theft of car owned by the wife of complainant.

3. Status report filed by way of affidavit dated 07.02.2024 of Mr. Naveen Sharma, HPS, Assistant Commissioner of Police, Palam Vihar, Gurugram, is taken on record. Copy thereof supplied to the other side.

Registry to do the needful.

4. Contends that petitioner is not named in the FIR; rather implicated on the basis of disclosure made by co-accused Harpreet @ Gatha. Further contended that no recovery has been effected from the petitioner. Lastly contended that petitioner was nominated in two more FIRs on the basis of disclosure made by said Harpreet @ Gatha, but he was acquitted in these cases.

5. *Per contra*, learned State counsel, on instructions, has opposed the prayer on the premise that present petition is not maintainable in view of the law laid down by Hon'ble the Supreme Court in **G.R. Ananda Babu V. State of Tamil Nadu (SC), 2021(1) R.C.R. (Criminal) 843**. Further contended that petitioner is a habitual offender and involved in other cases of similar nature. Also contended that in the present case, petitioner played active role in the commission of crime as he provided master key and other machine/tools to co-accused Jitender, for unlocking the vehicle.

6. Heard learned counsel for the parties and perused the paper-book.

7. Admittedly, this is the second petition filed by petitioner under Section 438 of the Cr.P.C. for grant of pre-arrest bail. The earlier petition bearing CRM-M-51864-2023 was disposed off by this Court vide order dated 21.11.2023 and relevant part of the same is extracted as under:-

“Petition under Section 438 of the Code of Criminal Procedure, 1973, has been filed for grant of pre-arrest/anticipatory bail to the petitioner in FIR No.100 dated 17.05.2023, under Sections 120-B, 379 read with Section 34 IPC, registered at Police Station, New Colony Gurugram, Tehsil and District Gurugram.

2. Learned counsel for the petitioner, on instructions, does not press the petition at this stage; however, he submits that petitioner is

ready to surrender before the Court below, but his regular bail be decided expeditiously.

3. Ordered accordingly.

4. In case, the petitioner surrenders before Court concerned within one week from receipt of certified copy of this order, his regular bail be decided as per law within two weeks.

5. Pending application(s), if any, shall also stand disposed off."

8. Petitioner has now filed this second petition for pre-arrest bail without there being any change of circumstances; thus the same is not maintainable and reference in this regard can be made to para 7 of

G.R. Ananda Babu's case (supra) judgment, which reads as under:-

"7. 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 speaking order and that too by the same Judge."

9. Also noteworthy that apart from the present FIR, petitioner is facing various other criminal cases and details of which, reflected in Para 12 of the affidavit dated 07.02.2024, are as under:-

- "i. FIR No.237 of 2022 u/s 379 IPC P.S. Sector-10, Gurugram.*
- ii. FIR No.257 of 2022 u/s 379 IPC P.S. Sector-10, Gurugram.*
- iii. FIR No.120 dated 07.05.2023 u/s 379, 34 IPC P.S. Rajendra Park, Gurugram.*
- iv. FIR No.419 dated 20.07.2022 u/s 379,201 IPC P.S. City, Bhiwani.*
- v. FIR No.197 dated 16.11.2022 u/s 379 IPC and 25 Arms Act P.S. Mandrela, Distt. Jhunjhunu (Rajasthan).*
- vi. FIR No.197 dated 16.11.2022 u/s 379 IPC and 25 Arms Act P.S. City, Bhiwani."*

10. Although, learned counsel for the petitioner has pointed out that FIR No.197 dated 16.11.2022, under Section 379 IPC and Section 25 Arms Act, registered at Police Station City, District Bhiwani

mentioned at Serial No.(vi) (*supra*) is not pending against the petitioner, but learned State counsel, after obtaining instructions from the quarter concerned, clarified that in fact, it is FIR No.324 dated 01.06.2022, under Section 379 IPC and Section 25 Arms Act, registered at Police Station City, District Bhiwani; thus, it seems to be only a typographical error; and as such, not helpful to the petitioner, in any manner.

11. Even otherwise, in the present case, petitioner is alleged to have supplied master key and other supporting tools to the co-accused which were used for unlocking the car in question and the same are yet to be recovered, for which custodial interrogation is the only way out.

12. In view of the above, there is no option except to dismiss the petition.

13. Ordered accordingly.

14. The above observations may not be construed as an expression of opinion on merits of the case, in any manner.

15. Pending application(s), if any, shall also stand disposed off.

08.02.2024
atulsethi

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No