

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

103

CRM-M-5993-2024 (O&M)
Date of decision: 07.03.2024

Lovepreet Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Saurabh Kaushik, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

Mr. Shivpratap Khattri, ADvocate
for respondent No. 2/complainant.

MANISHA BATRA, J. (Oral)

1. This is the second petition that has been filed by the petitioner under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No. 59 dated 21.07.2023, registered under Sections 498-A and 406 (added later on) of IPC at Women Police Station, District Patiala. The first petition, bearing **CRM-M-57195-2023**, was dismissed by this Court on 18.01.2024 by passing a detailed order.
2. Learned counsel for the petitioner has submitted that the first petition filed by the petitioner seeking grant of anticipatory bail was dismissed

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by this Court on that ground that he could not deposit an amount of Rs. 25,000/- with the Registry of this Court as litigation expenses, as per order dated 10.11.2023. He has submitted that since the petitioner was on run for the last about three months and was in financial crunch due to non-payment of his salary, he could not deposit the aforesaid amount. However, now he is in a position to deposit the same. Therefore, it is urged that the present petition deserves to be allowed and the petitioner deserves to be extended benefit of pre-arrest bail.

3. On the other hand, learned State counsel, assisted by learned counsel for the complainant, has opposed the prayer of the petitioner and has argued that the custodial interrogation of the petitioner is required for thorough investigation of the matter. He has further submitted that the petitioner is still absconding and has not surrendered before the police authorities, despite dismissal of his first petition by this Court on 18.01.2024 and has filed the present petition, which is not maintainable as there is no change in circumstance. Therefore, it is urged that the present petition is liable to be dismissed.

4. Besides supporting the contentions as raised by learned State counsel, learned counsel for the complainant has submitted that the petitioner has subjected the complainant/victim to cruelty and harassment on account of demand of dowry and has also extended beatings to her. Therefore, he does not deserve the concession of pre-arrest bail.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. A perusal of the record shows that the first anticipatory bail petition, filed by the petitioner, was dismissed by this Court on 18.01.2024 by passing a detailed order, wherein this Court, apart from making other observations, has specifically observed that the custodial interrogation of the petitioner is must for disinterring many useful information. It was also observed that the possibility of conducting further thorough investigation and elucidating relevant information by the investigating agency would be reduced if the discretionary relief of pre-arrest bail is extended to the petitioner, as obviously a *prima facie* case was made out against the petitioner. Therefore, the non-deposit of aforesaid amount of Rs. 25,000/-, in compliance with an earlier order of this Court, was not the sole ground for dismissal of the first petition. It is well settled law that a second anticipatory bail application is not maintainable until and unless there is material change in circumstance in favour of the accused. Reliance in this regard can be placed upon the judgments of this Court rendered in ***Rajwinder Singh vs. State of Punjab : 2015 SCC Online P&H 14287*** and ***Hardip Singh vs. State of Punjab : 2015 (3) RCR (Criminal) 138***.

7. The petitioner has filed this petition on the ground that he is now ready to deposit the aforesaid amount of Rs. 25,000/-, which according to him is a material change in circumstance, entitling him to file a second petition seeking pre-arrest bail. This offer of the petitioner only demonstrates his willingness to deposit the aforesaid amount as proof of his *bona fides*, which option was available to him earlier also, hence, it cannot be termed as 'changed circumstance', rather, it is only a 'new circumstance'. A second anticipatory bail application would be maintainable if there is a change in the

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factual situation or in law, which requires the earlier view being interfered with or where the earlier findings have become obsolete. This is the limited area in which an accused, who has been denied bail earlier, can move a subsequent anticipatory bail application. Reliance in this regard can be placed upon a Full Bench judgment of the Rajasthan High Court rendered in ***Ganesh Raj vs. Rajasthan and others : (2015) 1 CrL LR (Raj.) 613***. However, learned counsel for the petitioner has failed to point out any change in circumstance/situation.

8. In view of the discussion as made above, I am of the considered opinion that no case has been made out indicating towards any ‘change in circumstance’, which makes the petitioner entitled to file a second anticipatory bail petition. Accordingly, the present petition is dismissed.

9. It is made clear that nothing observed herein shall be construed to be an expression of opinion on the merits of the case as the same are only for the purpose of deciding the present petition.

07.03.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>