

103

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8344-2024
DECIDED ON: 16.02.2024

RAKESH KUMAR

.....PETITIONER(S)

VERSUS

STATE OF PUNJAB

.....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. D. S. Nigha , Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

Mr. G. S. Salana, Advocate
for the complainant.

N.S. SHEKHAWAT, J (ORAL)

1. The petitioner has filed the present petition under Section 438 Cr.P.C. with a prayer to grant him anticipatory bail in case FIR No.210 dated 23.10.2023 under Sections 408, 120-B of Indian Penal Code, 1860 registered at Police Station Mandi Gobindgarh, District Fatehgarh Sahib (Annexure P-1).
2. It is apparent that the petitioner had earlier filed a petition under Section 438 Cr.P.C., with a prayer to grant him concession of anticipatory bail in CRM-M-58194-2023 and the arguments were addressed by learned counsel for the petitioner at length. However, when this Court was not inclined to grant the concession of anticipatory bail, learned counsel for the petitioner had withdrawn the petition. Now, after a period of about 27 days, the second petition has been filed by the petitioner for grant of concession of anticipatory bail. Even, in the entire

bail petition, the petitioner has not mentioned any changed circumstances. Even, the same arguments has been repeated by learned counsel appearing on behalf of petitioner.

3. The Hon'ble Supreme Court has held in the matter of "Kalyan Chandra Sarkar Versus Rajesh Ranjan @ Pappu Yadav", 2005 AIR (SC) 925 as follows:-

"16. The principles of res judicata and such analogous principles although are not applicable in a criminal proceeding, but the courts are bound by the doctrine of judicial discipline having regard to the hierarchical system prevailing in our country. The findings of a higher court or a coordinate Bench must receive serious consideration at the hands of the court entertaining a bail application at a later stage when the same had been rejected earlier. In such an event, the courts must give due weight to the grounds which weighed with the former or higher court in rejecting the bail application. Ordinarily, the issues which had been canvassed earlier would not be permitted to be re-agitated on the same grounds, as the same it would lead to a speculation and uncertainty in the administration of justice and may lead to forum hunting.

17. The decision given by a superior forum, undoubtedly, is binding on the subordinate fora on the same issue even in bail matters unless of course, there is a material change in the fact situation calling for a different view being taken. Therefore, even though there is room for filing a subsequent bail application in cases where earlier applications have been rejected, the same can be done if there is a change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete. This is the

limited area in which an accused who has been denied bail earlier, can move a subsequent application. Therefore, we are not in agreement with the argument of learned counsel for the accused that in view the guaranty conferred on a person under Article 21 of the Constitution of India, it is open to the aggrieved person to make successive bail applications even on a ground already rejected by courts earlier including the Apex Court of the country...”

4. In view of the above discussion, the second petition under Section 438 Cr.P.C., is not maintainable as learned counsel for the petitioner has failed to point out any change in the circumstances in the present case. Thus, the present petition is ordered to be dismissed with cost of Rs.10,000/-, which shall be deposited by the petitioner in the account of “Punjab and Haryana High Court Bar Clerks Association”, within a period of two weeks from today.

(N. S. SHEKHAWAT)
JUDGE

16.02.2024
Aman Dua

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>