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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-32668-2024

Date of Decision: 23.07.2024

Harshvardhan

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

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

HARSH BUNGER J. (ORAL)

1. Petitioner (Harshvardhan) has filed this second bail petition under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in case FIR No.196, dated 12.07.2022 (Annexure P-1) registered under Section 22 (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Saha, District Ambala.
2. The earlier petition filed by the petitioner seeking anticipatory bail was dismissed as withdrawn, vide order dated 21.03.2023, passed in **CRM-M-8496-2023** (Annexure P-5).
3. Learned State counsel, who appears in pursuance of advance copy of this petition being served upon the State submits that the first bail petition filed by petitioner was dismissed as withdrawn and no changed

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circumstances have been brought forth by the petitioner so as to maintain this petition. He places reliance upon a judgment rendered by Hon'ble Division Bench of this Court in ***Manjinder Kaur vs State of Punjab (CRM-M-40916-2022*** and other connected matter), decided on 30.01.2023.

4. I have heard learned counsel for the parties and perused the paper book.

5. The issue regarding the maintainability of the second bail petition, after the dismissal of the first anticipatory bail petition, has been considered in ***Manjinder Kaur's case (supra)***, wherein it has been held as under :-

“12. 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the anticipatory bail application, it can be said that once a first bail application under Section 438 Cr.P.C. stands withdrawn, a second or subsequent bail application would not be maintainable merely on the ground that some new inconsequential and cosmetic change in circumstances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



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Section 438 Cr.P.C. would be maintainable only if there is substantial material or substantive change in the fact situation and circumstances of the case due to subsequent events or in law.”

6. Keeping in view the aforestated position, once the first anticipatory bail petition has been dismissed, therefore the second petition would not be maintainable. Further, the instant petition is also not maintainable, merely on the ground that the report under Section 173 Cr.P.C. has been filed against the co-accused persons; which in my considered view, would not constitute changed circumstance. It is also noticed that the first anticipatory bail application was dismissed on 21.03.2023 and despite lapse of more than one year, the petitioner has been able to evade his arrest. Let the concerned Senior Superintendent of Police take appropriate steps in that regard.

7. In view of the above, I do not find any merit in the present petition and the same is hereby dismissed with aforesaid observations.

8. A copy of this order be forwarded to concerned Senior Superintendent of Police.

9. All pending application(s), if any, shall also stand closed.

23.07.2024

Himani

(HARSH BUNGER)

JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No