



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105

CRM-M-52803-2024 (O&M)
Date of Decision: 23.10.2024

Shani Dev @ Sunny

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Sumit Dua, Advocate for the petitioner.

Mr. Kunwarbir Singh, A.A.G., Punjab.

NIDHI GUPTA, J, ORAL.

Prayer in the present 2nd petition under Section 482 of BNSS is for grant of anticipatory bail to the petitioner in FIR No.62 dated 28.03.2024 under Sections 294, 323, 324, 427, 148, 149 IPC (Section 452/354 IPC added later on) registered at Police Station Basti Bawa Khel, Jalandhar and further arrest of the petitioner be stayed during the pendency of the present petition.

Learned counsel for the petitioner seeks anticipatory bail in the above said FIR on the ground that main accused Jaskaran Gujjar @ Kannu has been arrested. Perusal of the record of the case shows that when this Court was not inclined to grant anticipatory bail to the petitioners, the first bail application of the petitioners was dismissed as withdrawn, vide order dated 05.08.2024 passed by this Court in CRM-M-22913-2024 (Annexure P-6).



Learned counsel for the petitioner relies upon a judgment of the Hon'ble Supreme Court in *Rani Dudeja vs. State of Haryana, Law Finder Doc Id# 841802*, to demonstrate the maintainability of the second anticipatory bail application, the relevant portion of which reads as under:-

“4. We are afraid, the stand taken by the High Court cannot be appreciated. The petitioner was for anticipatory bail and the one which had been filed earlier might have been withdrawn in a given situation, without inviting the Court to consider the same on merits. On change of circumstances, when another application under Section 438 Cr.P.c. was filed, the High Court should have considered the same on merits. The principle of res judicata could not have operated in an application for bail.”

Learned counsel for the petitioner submits that second bail application is acceptable as the main accused has been arrested in the present case.

Learned counsel for the State, on instructions from ASI Rajinder Singh informs this Court that main accused Jaskaran Gujjar @ Kannu has not been arrested in the present case. Out of 8 FIRs against the said accused Jaskaran Gujjar @ Kannu; he has been arrested in case FIR No. 193 dated 03.09.2024 registered under Sections 109 of BNS and Sections 25, 24 and 59 of Arms Act at Police Station Sadar, Jalandhar. It is also noted that serious allegations have been made in the FIR that the petitioner had inflicted dattar blows on the complainant and the co-victim as a result of which the complainant had suffered 6 injuries.

In view of the facts as notice above, second petition for grant of anticipatory bail is **dismissed**.





Pending application, if any, also stands disposed of.

23.10.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

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