



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49418-2024 (O&M)
Reserved on: 19.12.2024
Date of Pronouncement:- 16.01.2025

MANGAT RAM
.....PETITIONER
Vs.
STATE OF HARYANA ...RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN
(As on the reserved date)

Present: Mr. Gaurav Vir Singh Behl, Advocate,
for the petitioner.

Mr. Amrik Singh Narwal, D.A.G. Haryana, with
Mr. Anil Chahal, D.A.G., Haryana.

HARPREET KAUR JEEWAN, J.

1. The petitioner apprehending arrest in FIR No. 425, dated 27.07.2023, under Section 376-D IPC (Section 506 thereof was added later on), registered at Police Station City, District Ambala, has filed this 2nd petition seeking anticipatory bail, under Section 482 of the *Bharatiya Nagarik Suraksha Sanhita*, 2023.
2. The first petition under Section 438 Cr.P.C was dismissed by this Court, vide order dated 09.02.2024 passed in CRM-M-4590-2024 (Annexure P-5) by recording the following reasons:-

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- “5. I have considered the aforesaid contentions.
6. As per the prosecutrix, she is working as an
Asha Worker in Village Jalbera. She also works on the



shop of her Bua's son. On 23.07.2023, at about 12:00 PM, she had gone to the said shop for doing her work. She was present at the shop along with Janak Raj and Bittu. However, two friends of Janak Raj came in the room and started developing physical relations with the prosecutrix forcibly. Thereafter, accused Janak Raj also committed illicit act with the prosecutrix. Thereafter, the prosecutrix came home and next day, she shared the incident with her sister and got registered the FIR.

7. *As per the status report, accused Janak Raj was arrested and he has disclosed the names of the petitioners in his disclosure statement (Annexure R-1). He further disclosed that on 23.07.2023, the petitioner along with his co-accused Gurpreet @ Bittu had committed rape with the prosecutrix. Even co-accused Vicky was arrested on 19.10.2023 and he had also suffered a disclosure statement (Annexure R-3) disclosing the name of the petitioner.*

8. *As per the Forensic Science Laboratory Report (Annexure R-2), human semen was detected on Exhibit-5 (garments of the victim) and Exhibit-6 (Gadda cover). Exhibit-6 is the sealed cloth parcel which is stated to have been recovered by the Investigating Officer. The custodial interrogation of the petitioner is required. His medical examination and comparison of the sample through the Forensic Science Laboratory is also required.*

9. *Keeping in view the gravity of the allegations levelled against the petitioner and the fact that three accused have ganged and committed sexual offence upon the prosecutrix, no ground for grant of pre-arrest bail to the petitioner is made out, as such, the present petition stands dismissed.”*



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3. Learned counsel for the petitioner *inter alia* contends that few days after the dismissal of the first petition, the prosecutrix appeared as a witness during the trial which is being faced by co-accused Janak Raj and others and she did not support the prosecution case in her statement (Annexure P-6). She has categorically stated that she has neither given any complaint against the accused to the police nor police recorded her statement.

3.1 While submitting reliance on the decision of the co-ordinate Bench of this Court in Bhisham Singh vs. State of Haryana (CRM-M-13315-2024), decided on 09.04.2024, learned counsel for the petitioner contends that the second petition seeking anticipatory bail is maintainable.

4. A status report, dated 16.12.2024, by way of an affidavit of LSI Rajvinder Kaur, Investigating Officer, Police Station City, District Ambala, has already been filed by learned State counsel. The same is taken on record.

5. Learned counsel for the State has opposed the present petition, on the ground of gravity of allegations. He contends that the successive petition seeking anticipatory bail is not maintainable as the first petition was dismissed discussing the merits.

5.1 Reliance has been placed upon the judgment of the Hon'ble Supreme Court in G.R. Anada Babu vs. State of Tamil Nadu & Anr 2021 (1) RCR (Criminal) 843 and upon the judgment of the Division Bench of this Court in Manjinder Kaur vs. State of Punjab and other connected cases (CRM-M-40916-2022), decided on 30.01.2023.



6. I have considered the contentions raised by learned counsel for the parties and have gone through the paper-book carefully.

7. It is a case where the petitioner earlier filed a petition seeking anticipatory bail before this Court and vide order (Annexure P-5), the same was dismissed on merits. It is a settled law that once a petition seeking anticipatory bail has been dismissed on merits by a Court, 2nd petition seeking the same relief is not maintainable unless there are strong and special reasons for entertaining the same. The Hon’b le Supreme Court in G.R. Anada Babu’s case (*supra*) observed as under:-

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“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 a speaking order and that too by the same Judge.”

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8. Similarly, Hon’ble the Division Bench of this Court while deciding an order regarding maintainability of second petition after dismissal of the first petition on merits in Manjinder Kaur’s (*supra*) 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 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.”

9. After hearing learned counsel for the parties and after perusal of the present petition, this Court does not find special/strong reasons to consider the prayer of the petitioner as an exception.

10. Consequently, the present petition stands dismissed.

11. It is made clear that nothing observed hereinabove will be taken to be an observation on the actual merits of the case, which would be taken up by the learned trial Court wholly on the basis of evidence



led/gathered before it.

12. Pending miscellaneous applications, if any, also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

January 16, 2025
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Whether Speaking	Yes
Whether Reportable	No