

9Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No.2130 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Mohd. Safdar, Advocate, for the applicants. Mr. V.K. Jemini, DAG for the State of Uttarakhand. The brief facts of the case are that initially on 09.07.2022, an FIR No.602 of 2022, was registered against the named accused persons therein, which included the present applicants, for their alleged involvement in commission of the offences under sections 147, 148, 323, 504 and 506 of IPC. The matter was investigated, and consequent to the culmination of the investigation, the Chargesheet No.01, dated 29.11.2022, was submitted by the Investigating Officer, wherein, the offence under section 308 of IPC was introduced. The argument of the learned counsel for the applicant is that for the offences for which the FIR was registered, he has already been released on bail and the said bail granted is still continuing. He submits that in an event if a subsequent offence is added during the course of the investigation, he need not to be arrested because the earlier order of granting the bail since is already subsisting. In support of his contentions, learned counsel for the applicant makes a reference to the judgment of the Hon'ble Apex Court as rendered in SLP (Crl) No.10179, "Manoj Suresh Jadhav and others Vs. The State of Maharashtra", as decided on 07.05.2018, where the Hon'ble Apex Court has observed as under:- "It is not permissible for the respondent-State to simply re-arrest the petitioners by ignoring order dated 02.06.2016 passed by the learned Additional Sessions Judge, Pune, which was in force at that time.

			We direct that the petitioners shall be released on bail on the same condition/s as imposed in the aforesaid order dated 02.06.2016 by the learned Sessions Judge, Pune.” Similar view was expressed by the coordinate Bench of this Court in C482 No.191 of 2019, “Salman Vs. State of Uttarakhand and another”, and the relevant observation has been made in paragraph no.7, of the said judgment, which is extracted hereunder:- “7. Perusal of the order in the case of Manoj Suresh Jadhav (supra) reveals that the accused was already granted bail under section 509 read with Section 34 of the I.P.C. but during investigation, offence under Section 376 I.P.C, was added and the accused was rearrested. Hon’ble Supreme Court held that it is not permissible to simply re-arrest the accused, when bail order was still in force and directed that the accused may be released on the same condition.” In view of the aforesaid, it goes without saying that since the applicant is already on bail in relation to the other offences, except for the offence under section 308 of IPC, which was introduced at the stage of the investigation. In view of the aforesaid guiding principles of the judgment of the Hon’ble Apex Court, the applicant is not to be re-arrested for the added offences as contemplated by the Hon’ble Apex Court in the light of the excerpts of the judgment, extracted above. Subject to the ratio laid down by the Hon’ble Apex Court, the C482 application would stands disposed of. (Sharad Kumar Sharma, J.) 02.11.2023 NR
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