

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 119

Criminal Miscellaneous No.M-8734 of 2016 (O & M)
Date of Decision: July 11, 2016

Umar Mohammad

..... PETITIONER

VERSUS

State of Haryana & others

..... RESPONDENT

...

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. Bijnder Dhankhar, Advocate, for the petitioner.

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Jaspal Singh, J

1. Challenge in this petition is to order/judgment dated January 30, 2016 (Annexure P-2) passed by the Additional Sessions Judge, Mewat, whereby order dated September 30, 2015 (Annexure P-1) passed by the Judicial Magistrate Ist Class, Mewat has been upheld, vide which, respondent Nos.2 and 3 were released on bail under Section 308 IPC.

2. The facts giving rise to the instant petition are that after investigation, report under Section 173(2) Cr.P.C. was presented under Sections 323, 341, 506 IPC with the aid of Section 34 IPC against

dated August 26, 2015. Subsequently, offence under Section 308 IPC was added and after addition of offence under Section 308 IPC, which is exclusively triable by the Court of Sessions, respondent Nos.2 and 3 were ordered to be released on bail by the Judicial Magistrate Ist Class vide order dated September 30, 2015.

3. The contention of learned counsel for the petitioner while assailing the impugned orders is that since offence under Section 308 IPC was exclusively triable by the Court of Sessions, the Magistrate was not empowered to release respondent Nos.2 and 3 on bail after addition of offence under Section 308 IPC subsequent to presentation of report under Section 173(2) Cr.P.C. But, this Court does not find any merit in the aforesaid submission of learned counsel for the petitioner in view of settled proposition of law.

4. Such a controversy came for hearing before this Court in case Satbeeri vs. State of Haryana, 2011(2) RCR (Criminal) 392, in which the accused was arrested in an offence under Section 452, 509 and 506 IPC and enlarged on bail. Subsequently, offence envisaged under Section 3(1)(xi)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'Act') was added during investigation and it was held that accused were entitled to be released on bail on furnishing fresh bail bonds for newly added offence because offence under Section 3(1)(xi)(xii) of the Act is punishable with maximum imprisonment for five years and not punishable with death or life imprisonment.

5. Adverting to the facts of the case in hand, offence under Section 308 IPC, which has been subsequently added after respondent Nos.2 and 3 were enlarged on bail, is only punishable with maximum

down by this Court in the above judgment, there was no bar to release respondent Nos.2 and 3 under Section 308 IPC by the concerned Magistrate. Thus, the instant petition being devoid of merits stands dismissed.

July 11, 2016
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(Jaspal Singh)
Judge