

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM 23944 of 2016 in /and
CRR 2173 of 2016

Date of Decision: August 12, 2016

Hanish ThakurPetitioner
Vs.
State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. H.P.S. Ishar, Advocate for the petitioner.

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M.M.S. BEDI, J. (ORAL)

For the reasons mentioned in the application, the same is allowed. Date of hearing is preponed from October 5, 2016 to today.

The petitioner along with others has been charged vide order dated January 15, 2016.

Counsel for the petitioner has submitted that the charges have been framed without carefully going through the material which forms part of the report under Section 173 (2) Cr.P.C. It is vehemently urged by counsel for the petitioner that no offence is made out against the petitioner even if the entire material gathered during the course of investigation is taken into consideration as gospel truth.

I have heard learned counsel for the petitioner and I am of the opinion that without going through the entire report under Section 173 (2) Cr.P.C. and all the statements of the witnesses and documents, it will not be

appropriate for this Court to exercise the revisional jurisdiction to quash the charges on the ground apprised for by the petitioner.

After hearing counsel for the petitioner, I am of the opinion that an accused can seek discharge in a warrant case instituted on police report under Section 239 Cr.P.C. and in the case instituted otherwise then on police report, under similar provisions under Section 245 Cr.P.C. enabling an accused to seek discharge. The Code of Criminal Procedure empowers a Magistrate in the exercise of powers under Section 216 Cr.P.C. to alter the charge at any stage before the pronouncement of the judgment. As per the provisions of Chapter XVIII, Section 227 Cr.P.C. enables a Sessions Court to pass an order of discharge by recording reasons in case upon consideration of the record and the documents submitted the Judge considers that there is no sufficient ground for proceeding against the accused. Despite the alternative remedies available to the petitioner, the petitioner appears to have invoked the inherent revisional jurisdiction of this Court.

This petition is disposed of as premature without prejudice to the rights of the petitioner to approach this Court again. It is expected that any application filed by the petitioner would be considered by passing a speaking order.

August 12, 2016
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.