

214

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-11917 of 2017

Date of decision: July 05, 2017

Joni

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG Punjab.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

Petitioner seeks grant of regular bail in FIR No.180 dated 12.06.2016, under Sections 148, 149, 323, 324, 325, 506, 307 of the Indian Penal Code, 1860 (for short 'IPC') (Section 302 IPC added later on), registered at Police Station Sadar Panipat, District Panipat. The petitioner was arrested on 23.09.2016 and is in jail since then as under trial.

Learned counsel for the petitioner submits that the challan has been filed. It is not in dispute that after filing of the challan, the police found the petitioner in the category of 'innocent' and accordingly, submitted the report. The report was, however, rejected by the learned Sessions Court on the ground that the further investigation was without permission from the Magistrate. That is not

the correct position of law as understood by the learned Sessions Court, as no such permission is contemplated in law as stated by learned Additional Sessions Judge. The reading of Section 173(8) of the Code of Criminal Procedure, 1973 itself shows that there is no such requirement that the permission of Magistrate is to be required for further investigation. In the case of ***Vinay Tiyagi Vs Irshad Ali @ Deepak 2013(2) RCR (Criminal) 197, Hon'ble Supreme Court*** what has been held is that, it has been practice in vogue to obtain permission, but the same is not a *sine qua non*. In that view of the matter, the petitioner would be entitled to grant of bail in the light of the further investigation that was carried out.

Hence, this petition is allowed. The petitioner is ordered to be released on bail subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned. Petitioner shall not enter District Panipat save and except the dates of appearances before the trial Court. Petitioner shall not tamper, influence and threaten the prosecution witnesses and complainant as well.

(A.B. CHAUDHARI)
JUDGE

July 05, 2017

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No