

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

(128)

CWP-11198-2017

Decided on: May 22, 2017.

Kulwinder Singh

.... Petitioner

Versus

State of Punjab and others

..... Respondents

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

Present: Mr. Manoj K. Sharma, Advocate, for the petitioner.

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

Through instant writ petition, the petitioner seeks a writ in the nature of mandamus directing respondents No. 2 and 3 to comply with the provisions of Section 41 and 41-A Cr.P.C during course of investigation in FIR No.145 dated 09.12.2016, under Section 406/420 IPC registered at Police Station Chabbewal, District Hoshiarpur.

It is the result of cumulative effect of a number of factors when a decision is taken for arresting a person in a criminal case. In this context, the law was laid down in **Joginder Kumar Vs. State of U.P. and others, (1994) 4 S.C.C. 260.** The petitioner has not availed any remedy under Section 438 Cr.P.C to protect his liberty in the light of the provisions of Section 41 and 41-A Cr.P.C.

This petition is disposed of as not maintainable, at this stage, with liberty to the petitioner to avail other statutory legal remedies available to him to protect his liberty by availing relief under Section 438 Cr.P.C or other provisions of law. All the pleas taken up in this petition, can be raised during the said proceedings, including the pleas pertaining to the illegalities and irregularities of investigation of the case including the violation of Section 41 and 41-A Cr.P.C, if any.

**(M.M.S. BEDI)
JUDGE**

May 22, 2017

harsha

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No