

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

**Criminal Misc. No. M-16163 of 2017 and
Criminal Misc. No.27732 of 2017
Date of decision: 13.07.2018**

Balbir Chand

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. C.L. Verma, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab
for the respondent -State.

Daya Chaudhary, J. (Oral)

Petitioner-Balbir Chand has filed a petition under Section 438 Cr.P.C. for grant of anticipatory bail to him in case FIR No.0034 dated 01.04.2017 registered under Section 15(2)(B) of the Indian Medical Council Act and Section 420 IPC at Police Station Rawal Pindi, Tehsil Phagwara, District Kapurthala during pendency of the investigation.

Vide order dated 08.05.2017, notice of motion was issued with an interim direction to the petitioner to join investigation and to be released on interim bail. Thereafter, the case was adjourned on various dates. During pendency of the petition, the petitioner moved an application i.e., Criminal Misc. No.27732 of 2017 for placing on record amended petition along with Annexure P-3 on the ground that offence under Sections 465, 467, 471 IPC and Section 15(2) of the Indian Medical Council Act have been added. Copy of the DDR in FIR No.0034 is also annexed as Annexure P-3 with the

application.

Notice in the application was issued. A query was put to learned counsel for the petitioner to show as to how amendment in the proceedings is maintainable during pendency of the case.

Learned counsel for the petitioner has relied upon judgment rendered by Hon'ble the Apex Court in ***S.R.Sukumar vs. S. Sunaad Raghuram, Criminal Appeal No.844 of 2015 decided on 02.07.2015*** wherein judgment rendered by Hon'ble the Apex Court in ***U.P. Pollution Control Board vs. Modi Distillery and others, (1987) 3 SCC 684*** has been relied. It has also been held in said judgment that there is no specific provision in the Code to amend either a complaint or a petition filed under the provisions of the Code but the Courts have held that the petition seeking such amendment to correct curable infirmities can be allowed even in respect of complaints. The relevant portion of said judgment is reproduced as under: -

17. Insofar as merits of the contention regarding allowing of amendment application, it is true that there is no specific provision in the Code to amend either a complaint or a petition filed under the provisions of the Code, but the Courts have held that the petitions seeking such amendment to correct curable infirmities can be allowed even in respect of complaints. In U.P. Pollution Control Board vs. Modi Distillery And Ors., (1987) 3 SCC 684, wherein the name of the company was wrongly

mentioned in the complaint that is, instead of Modi Industries Ltd. the name of the company was mentioned as Modi Distillery and the name was sought to be amended. In such factual background, this Court has held as follows:-

“...The learned Single Judge has focussed his attention only on the technical flaw in the complaint and has failed to comprehend that the flaw had occurred due to the recalcitrant attitude of Modi Distillery and furthermore the infirmity is one which could be easily removed by having the matter remitted to the Chief Judicial Magistrate with a direction to call upon the appellant to make the formal amendments to the averments contained in para 2 of the complaint so as to make the controlling company of the industrial unit figure as the concerned accused in the complaint. All that has to be done is the making of a formal application for amendment by the appellant for leave to amend by substituting the name of Modi Industries Limited, the company owning the industrial unit, in place of Modi Distillery.... Furthermore, the legal infirmity is of such a nature which could be easily cured...”

Keeping in view the above mentioned judgment, the application for amendment is maintainable.

Learned State counsel on instructions from ASI Ashok Kumar submits that the petitioner has joined investigation and he is not required

any more.

Accordingly, the amended petition filed with the application is taken on record after adding the sections and interim order passed by this Court on 08.05.2017 is made absolute.

Disposed of accordingly.

However, the petitioner shall comply with the directions as contained under Section 438 Cr.P.C.

It is also made clear that in case any violation of terms and conditions of bail is there, the State is at liberty to move an application for cancellation of bail.

13.07.2018
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes