

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

CRM-M-19612-2018

Date of Decision:15.05.2018

Hunny

.....Petitioner

Vs.

State of Haryana

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Rakesh Dhiman, Advocate,
for the petitioner.

Mr. Baljinder Singh Virk, D.A.G., Haryana.

AMOL RATTAN SINGH, J. (Oral)

In this petition the petitioner seeks the concession of anticipatory bail, on the ground that he was earlier admitted to bail under Section 439 Cr.P.C., vide the order of the learned Sessions Judge, Gurugram, dated 18.01.2018, at that time the offences made out in the FIR in question being punishable under Sections 323/325/384/506 of the IPC.

Subsequently, however, with an offence punishable under Section 307 IPC having been added to the FIR, (on the ground that upon the injury stated to have been sustained by the complainant had been declared dangerous to life), the petitioner therefore is apprehending arrest.

On the last date hearing the MLR in respect of the injury sustained had been called for by the Court, a copy of which has been produced in Court today by the learned State counsel, alongwith the opinion of the doctor, to the effect that the injury of the patient is dangerous to life, there being a fracture in the temporal bone and carotid canal.

Learned counsel for the petitioner on the other hand however, relies upon an order of the Supreme Court dated 07.05.2018, passed in SLP (Criminal) No.10179/2017, wherein even with the commission of an offence punishable under Section 376 of the IPC having been added, the earlier offence alleged being one punishable under Section 509/34 of the Code, it was held as follows:

“By order dated 02.06.2016, the petitioners were granted bail for offence punishable under Section 509 read with Section 34 of the Indian Penal Code (for short, the 'IPC') by the learned Additional Sessions Judge, Pune.

During the course of investigation, the police added another offence under Section 376 of the Indian Penal Code in the FIR against the petitioners and re-arrest them. Being aggrieved, the petitioners filed writ petition before the High Court which was dismissed. Hence, the special leave petition.

We have heard learned counsel appearing for the parties and perused the record.

It is not permissible for the respondent-State to simply re-arrest the petitioners by ignoring order dated 02.06.2016 passed by the learned Additional Sessions Judge, Pune, which was in force at that time.

We direct that the petitioners shall be released on bail on the same condition/s as imposed in the aforesaid order dated 02.06.2016 by the learned Sessions Judge, Pune.

Having regard to the provisions of Section 439(2) of the Code of Criminal Procedure, the respondent-State is at liberty to apply for cancellation of bail and seek the custody of the petitioners-accused.”

That being so, this petition is allowed and it is directed that the petitioner shall continue to remain on bail upon the same bail and surety bonds already furnished, pursuant to the order of the learned Additional

Sessions Judge, dated 18.01.2018, with liberty, however, to the prosecution, to file an appropriate application for cancellation of bail.

Disposed of.

May 15, 2018

dharamvir

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO