

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-28428 of 2018

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Date of decision:19.7.2018

Vani Kola

...Petitioner

v.

State of Punjab

...Respondent

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. R.S. Rai, Senior Advocate with Mr. Anurag Arora, Mr. Devashish Marwah and Ms. Aneeta Harsh, Advocates for the petitioner.

Mr. Gaurav Garg Dhuriwala, Senior Deputy Advocate General, Punjab for the respondent-State.

Mr. J.S. Bedi, Senior Advocate with Mr. Sonpreet S. Brar Advocate for the complainant.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. seeking quashing of the impugned order issuing warrants of arrest dated 6.6.2018 (Annexure-P.1) where warrants of arrest were issued by the Court of learned Chief Judicial Magistrate, Bathinda, Punjab, in FIR No.114 dated 23.5.2018 registered for the offence under Section 420 IPC (Annexure-P.7) at Police Station Kotwali Bathinda, District Bathinda and all consequential proceedings emanating therefrom.

Notice of motion was issued in this case.

Mr. Gaurav Garg Dhuriwala, learned Senior Deputy Advocate

General, Punjab has put in appearance on behalf of the respondent-State and Mr. J.S. Bedi, learned Senior Advocate assisted by Mr. Sonpreet S. Brar, Advocate has appeared for the complainant and contested this petition.

I have heard learned senior counsel for the petitioner as well as learned Senior Deputy Advocate General, Punjab appearing for the respondent-State and learned senior counsel for the complainant and have gone through the record.

From the record, I find that admittedly the non-bailable warrants (Annexure-P.1) were issued by the Court against the petitioner in FIR No.114 dated 23.5.2018 registered for the offence under Section 420 IPC (Annexure-P.7) at Police Station Kotwali Bathinda, District Bathinda, vide which the learned Chief Judicial Magistrate, Bathinda, on Police request and after hearing learned A.P.P. issued the warrants of arrest of the petitioner for 21.7.2018. Aggrieved from this order, the present petition has been filed.

At the time of arguments, learned senior counsel for the petitioner mainly relied upon the provisions of Sections 41 and 41-A Cr.P.C. that these have not been complied with.

I have gone through the provisions of Section 41 Cr.P.C. It lays down the procedure that a Police Officer may without an order from a Magistrate and without a warrant, arrest any person. In the present case Section 41 Cr.P.C. will not apply as the Police Officer has not arrested any of the accused in this case without warrants from the Magistrate. Section 41-A Cr.P.C. deals with notice of appearance before Police Officer. It

provides that the Police Officer shall in all cases where the arrest of a person is not required under the provisions of sub-section (1) of Section 41 Cr.P.C., issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

In the present case the Police Officer has applied for issuance of warrants against the accused before the Court and the Court has issued the warrants after hearing the A.P.P. and the Investigating Officer. Learned senior counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in Arnesh Kumar v. State of Bihar and another, (2014) 8 SCC 273. I have gone through this judgment. In this case the guide-lines have been given to the Police and the guide-line to the Court is only that the Court will not authorize detention without giving reasons or passing order showing its satisfaction that detention is necessary. Therefore, as the warrants of arrest have been issued by the Court when the Police file had been produced before it by the Investigating Officer and the learned A.P.P. has been heard, therefore, the warrants of arrest cannot be quashed in this case.

Therefore, finding no merit in this petition the same is dismissed.

July 19, 2018.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No