

206
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.14965 of 2020
Date of decision: 30.06.2020

Chaman Lal

.....Petitioner

V/s.

State of Haryana

.....Respondent

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. G.C. Shahpuri, Advocate,
for the petitioner.

Mr. Anant Kataria, Deputy Advocate General, Haryana.

Sanjay Kumar, J.

The petitioner is one of the accused in FIR No. 208 dated 23.10.2019 on the file of P.S. Bilaspur, District Yamuna Nagar, registered under Sections 323, 325 and 34 IPC (Section 302 IPC was added later, on 09.11.2019). By way of this petition, he seeks grant of regular bail.

The record reflects that the petitioner was arrested on 24.10.2019 and was granted regular bail by the Illaqa Magistrate, Bilaspur, on 25.10.2019. Thereafter, the complainant expired on 08.11.2019. Thereupon, Section 302 IPC was added in the FIR and intimation thereof was given to the Illaqa Magistrate; The Superintendent of Police, Yamuna Nagar; and the Deputy Superintendent of Police, Bilaspur, through email.

Basing on this development, the petitioner was again arrested on 30.11.2019. The challan was presented in Court on 13.02.2020. Charges in the case are to be framed on 02.07.2020.

This being the factual scenario, it would be pertinent to note that this Court had occasion to consider the validity of similar action on the part of police, viz, addition of a new offence in the FIR after grant of bail, in **CRM-M-37011 of 2019**, titled '**Rahul Singh V/s. State of Punjab**'. Perusal of the final order dated 18.06.2020 passed therein reflects that this Court held that the Investigating Officer concerned must necessarily seek prior permission of the relevant Court before adding any further Sections in an existing FIR, when the accused has already been enlarged on bail. In this regard, reliance was placed upon the judgment of the Supreme Court in '**Pradeep Ram V/s. State of Jharkhand**', AIR 2019 (SC) 3193.

In terms of the law laid down by the Supreme Court in the aforesaid decision, when the accused has already been granted bail, on addition of an offence, the investigating authority cannot proceed to arrest the accused without first obtaining an order from the Court, which had granted the bail, permitting him to do so.

Admittedly, in the case on hand, the police did not resort to this procedure. In that view of the matter, the very validity of the subsequent arrest of the petitioner on 30.11.2019 is open to question. He would therefore be entitled to relief, subject to conditions.

The petition is accordingly allowed directing the release of the petitioner on regular bail in FIR No. 208 dated 23.10.2019 on the file of P.S. Bilaspur, District Yamuna Nagar, upon the petitioner furnishing a

personal bond for a sum of Rs. 20,000/- along with two sureties for a like sum each to the satisfaction of the Illaqa/Duty Magistrate concerned. Further, the petitioner shall not cause any inducement, threat or promise to any person involved with the case. The bonds furnished earlier, if any, shall stand discharged upon furnishing of the new bonds.

(SANJAY KUMAR)
JUDGE

30.06.2020
rakesh
whether speaking/non speaking : Yes/no
whether reportable/non reportable : Yes/no