

S.No.211

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

CRM-M-27538 of 2020 (O&M)

Date of Decision:15.09.2020

Amandeep @ Deepa

.....Petitioner

Vs.

State of Haryana

.....Respondent

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IN VIRTUAL COURT
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CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Ashit Malik, Advocate for the petitioner.

Mr. R.S. Jhand, Addl. AG, Haryana.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner for setting aside the order dated 02.12.2019 passed by the Illaqa Magistrate, whereby, after re-addition of Section 307 IPC, the Investigating Officer has been ordered to re-arrest the petitioner in case FIR No.343 dated 01.08.2019 registered under Sections 148, 149, 323, 324, 325, 307, 506, 427 and 120B IPC and Section 25 of Arms Act, 1959 at Police Station Sadar Thanesar, District Kurukshetar.

It is submitted by counsel for the petitioner that the case against the petitioner is totally concocted. Although in the first instance, the offence under Section 307 IPC was invoked by the Police, however, after the inquiry at their own level, the said Section was deleted by the Police.

Earlier, the petitioner was arrested in this case. However, the petitioner was granted bail pending trial. During the investigation, the Police claim to have recovered only a danda from the petitioner. Now, the Police are again invoking Section 307 IPC in the case. Hence, the Police had sought permission from the Magistrate to arrest the petitioner. Accordingly, the impugned order has been passed by the Court below. It is further submitted by counsel for the petitioner that while passing the impugned order, the Court below has not given any specific reason, as to for what purpose the petitioner would be required to be arrested. Still further, it is submitted that since on the same set of facts, the petitioner was arrested earlier and was granted bail pending trial by the Court, therefore, merely invoking Section 307 IPC once again, cannot be the sole ground for re-arresting the petitioner, and thereby, depriving him of his right to liberty. It is also submitted that the petitioner would appear before the trial Court regularly. Therefore, the petitioner need not be arrested.

Learned State Counsel, on instructions from Inspector Surender Kumar, has submitted that since Section 307 IPC has been added now, therefore, the petitioner deserves to be arrested. The petitioner can apply for fresh bail qua Section 307 IPC as well. On the previous date, counsel for the State was requested to seek instructions as to whether any fired bullet or empties of any kind has been recovered from the scene of occurrence or not. Today, learned State Counsel has submitted that nothing of that kind has been recovered by the Police from the spot. It is also not disputed by the learned State Counsel that, in this case; there is no injury caused to any

person by fire shots. Still further, it is not disputed that on the same set of facts, the petitioner was earlier granted bail by the Court.

Having heard both the counsels, this Court finds that Section 307 IPC does not have new genesis in the case. From the beginning itself, the Police had tried to invoke Section 307 IPC on the basis that the car was found having bullet marks. However, earlier, the Police in their own wisdom had chosen to delete Section 307 IPC from the case. Hence, it is clear that on the same set of facts, the petitioner was earlier arrested, but granted bail pending trial. Now again; merely on invoking of Section 307 IPC, the impugned order has been passed by the Court below; ordering the arrest of the petitioner. No specific purpose has been delineated in the impugned order; as to for what purpose, the custody of the petitioner would be required. Hence, the apprehension of the petitioner that the petitioner can be put behind the bar only for the sake of addition of new non-bailable Section is not entirely unfounded.

So far as the investigation of the case is concerned, undisputedly, the Police had investigated the case by taking the petitioner into custody. It is not even disputed that no fire shot injury is suffered by any person in this incident. Therefore, there does not appear to be any new facts which might required custodial interrogation of the petitioner. So far as the appearance of the petitioner before the trial Court, so as to face the charge under Section 307 IPC as well, is concerned, the petitioner has already undertaken to appear before the trial Court, so as to face further proceedings in accordance with law. Hence, there does not appear to be any

justification for taking the petitioner into custody.

In view of the above, but without commenting any further upon the merits of the case, the present petition is allowed. Accordingly, it is ordered that in case the petitioner appears before the Illaqa Magistrate/Duty Magistrate on or before 06.10.2020, then the petitioner shall be released on bail pending trial under Section 307 IPC as well, on his furnishing bail/surety bonds to the satisfaction of the Illaqa Magistrate/ Duty Magistrate.

September 15, 2020
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No