

109/2

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

CRM-M-34582-2020

Date of Decision: 23.11.2020

Harmesh Lal

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Vishal Sharma, Advocate,
for the petitioner.

Mr. Dhuriwala, learned Sr. DAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

Learned counsel for the petitioner submits that the petitioner in this case is seeking “default bail” under the provisions of Section 167(2) of the Cr.P.C., and that this petition has nothing to do with the other petitions with which it has been tagged (in which the issue is displaying of names of various accused/former accused on social media websites and continuing to add them as accused in the surveillance registers maintained in the police stations).

Hence, he submits that this petition may be detagged from the other cases, i.e. CRM-M-36564-2020 and CWP-13827-2020.

Ordered accordingly.

On merits, by this petition, the petitioner seeks quashing of the order dated 11.08.2020 (Annexure P-5) passed by learned Addl. Chief Judicial Magistrate, SBS Nagar and the order dated 16.10.2020 (Annexure P-7), passed by the learned Sessions Judge, SBS Nagar, and all subsequent proceedings arising therefrom.

Learned counsel for the petitioner submits that the petitioner having completed 60 days of custody on 08.08.2020 and having filed an application under the provisions of sub section (2) of Section 167 of the Cr.P.C. at 2:10 p.m. on 10.08.2020, by which time neither the offence punishable under Section 467 of the IPC had been added to the FIR nor had any application seeking extension of time for completing the investigation as regards offences already existing in the FIR, been moved by the prosecution, with the report under Section 173(2) of the Cr.P.C. in any case not having been presented by the investigating agency, he deserves to be admitted to bail.

Mr. Dhuriwala, learned Sr. DAG, Punjab, very fairly submits that undoubtedly the offence punishable under Section 467 of the IPC was added to the FIR on 10.08.2020 at 8:36 p.m., i.e. after the application filed by the petitioner (accused) was received by the competent court in the afternoon of that date.

That being so, without making any further comment on the issue, keeping in view the ratio of the judgments of the Supreme Court including the judgment in “**M. Ravindram vs. the Intelligence Officer, Directorate of Revenue Intelligence,**” SLP (Crl.) No. 2333 of 2020, decided on 26.10.2020, this petition is allowed, with the petitioner ordered to

be admitted to bail in terms of the provisions of Section 167 (2) of the Cr.P.C., upon him furnishing adequate bail and surety bonds to the satisfaction of the trial court.

Consequently, the orders dated 11.08.2020 (Annexure P-5) passed by learned Addl. Chief Judicial Magistrate, SBS Nagar and 16.10.2020 (Annexure P-7), passed by the learned Sessions Judge, SBS Nagar, are hereby set aside.

November 23, 2020

dharamvir/

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES
Whether Reportable : NO