

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

CRM-M-30709-2021

Date of decision-25.11.2021

Nagender Singh and others

...Petitioners

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Gitesh Sharma, Advocate for
Mr. Deepender Singh, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

Mr. Samridhi Sareen, Advocate for the complainant.

MANOJ BAJAJ, J. (Oral)

This petition has been filed by the petitioners under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.75 dated 17.06.2020 under Sections 147, 149, 323, 341 and 506 Indian Penal Code, 1860 registered at Police Station Sohna, District Gurugram (Sections 147, 149 IPC deleted and Sections 325 and 34 IPC added later on). The petitioners apprehended their arrest at the hands of Police.

On 03.08.2021, the following order was passed:-

“Learned counsel contends that the FIR was initially registered for the offence punishable under Sections 147, 149, 323, 341 and 506 IPC and after completion of investigation, the final report was also submitted for commission of offence punishable under Sections 323, 341, 506, 325 and 34 IPC. He contends that while considering the final report, the Magistrate opined that prima facie commission of offence punishable under Section 307 IPC is made out and the case was committed to the Court of Sessions vide order dated 14.07.2021 (Annexure P-6) and at that stage, the petitioners were on regular bail. He submits that in view of the observation of the learned Magistrate, the apprehension of arrest arose again and an application was filed under Section 438 Cr.P.C which has been declined with the observation that the accused were required to be arrested for the said purpose,

and the matter has been remanded back before the Magistrate by setting aside the Committal order. Learned counsel further submits that as the investigation of the case is complete, therefore, the custodial interrogation of the petitioners may not be necessary.

Notice of motion for 16.09.2021.

In the meantime, the petitioners be not taken in custody.

At this stage, Ms. Samridhi Sareen, Advocate appears on behalf of the complainant and accepts notice.”

Learned State counsel assisted by SI Satender does not dispute this fact that final report filed in the above FIR did not contain the offence punishable under Section 307 IPC and for the petitioners apprehension of arrest arose when the Magistrate observed that the offence punishable under Section 307 IPC is made out and sent the case before the Court of Sessions for trial.

After hearing the learned counsel for the parties, this Court finds that the petitioners were already on regular bail and the investigation is also complete, therefore, even if it is assumed that the offence punishable under Section 307 IPC may be added, the custodial interrogation of the petitioners would not be justified.

Resultantly, the petition is allowed and it is ordered that in the event of the arrest of the petitioners in relation to the proposed offence punishable under Section 307 IPC in the above mentioned FIR, they be released on anticipatory bail subject to their furnishing requisite bail bonds/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. The petitioners shall join the investigation as and when called upon to do so and shall abide by the

conditions as provided under Section 438 (2) Cr.P.C.

(MANOJ BAJAJ)
JUDGE

25.11.2021

vanita	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No