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

CRM-M-33736-2022 (O&M)

Date of decision:02.08.2022

YASHPAL

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Ketan Antil, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, DAG, Haryana

SURESHWAR THAKUR, J. (ORAL)

CRM-27282-2022

The instant application has been filed under Rule 3-A(I) Chapter VI Part B volume V of the High Court Rules and Orders for grant of leave for filing the present case without Number of Roll of Advocate.

For the good and valid reasons recorded in the application, the same is allowed.

CRM-M-33736-2022

1. In respect of penal incident which occurred on the relevant date, an FIR bearing No.0343 of 07.06.2022, became registered at Police Station Kharkhoda, District Sonipat, and, initially therein offences constituted under Sections 302, 34 of IPC, became embodied.
2. The learned counsel for the petitioner submits that, yet the investigations, as, underway, into the petition FIR are not being conducted in a fair, and, impartial manner. Therefore, he seeks a mandamus being made, upon

the respondents concerned, to transfer the investigations to a Probing Agency other than the one, who is instantly making investigations.

3. The above prayer would remain alive only when the investigations are underway, but can never be accepted when the investigations are closed either through institution of a closure report by the investigating officer concerned, before the jurisdictionally empowered Magistrate, and/or, upon an affirmative report under Section 173 of Cr.P.C., becoming instituted, before the jurisdictionally empowered Magistrate.

4. In that regard, the learned State counsel submits that, after completion of investigations into the petition FIR, a report under Section 173 of Cr.P.C., has been instituted before the jurisdictionally empowered Magistrate. Since he further submits that, the investigating officer concerned, after viewing the CCTV camera, installed at the crime site, has come to a conclusion that, not an offence embodied under Section 302 of IPC, is made out against the accused, but rather offences under Sections 279, 304-A of IPC, are made out, and, hence the above offences becoming narrated in the report instituted before the jurisdictionally empowered Magistrate.

5. Though, in the wake of the closure of investigations, in the above mode, the above asked for mandamus is not amenable for becoming granted by this Court, but yet the learned counsel for the petitioner submits that, the alteration of the offences, initially incorporated in the FIR, as the one under Section 302 of IPC, to the ones under Sections 279, 304-A of IPC, by the investigating officer, in his report instituted before the jurisdictionally empowered Magistrate, is untenable, and, hence speaks about the unfairness of investigations.

6. Even the above prayer cannot be accepted, as at the appropriate stage, especially at the time of framing of charges, it is open to the petitioner, with the assistance of the learned Public Prosecutor concerned, to make an address in the above regard before the jurisdictionally empowered Magistrate.

7. If the above motion is cast, thereupon, the learned jurisdictionally empowered Magistrate, shall pass lawful orders thereons.

8. Disposed of.

02.08.2022

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(SURESHWAR THAKUR)
JUDGE

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