

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

203

CRM-M-46285 of 2021 (O&M)

DECIDED ON: 4th July, 2022

Arohan Kapur

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. K.P. Singh, Advocate for petitioner.

Ms. Dimple Jain, AAG Haryana.

Mr. D.S. Kohli, Advocate and
Mr. Shrey Asnat, Advocate for complainant.

AVNEESH JHINGAN, J (ORAL)

This is a petition seeking anticipatory bail in case of FIR No.177 dated 25.4.2021, under Sections 420, 406, 467, 468, 120-B IPC, 1860 (Sections 406, 467, 468, 120-B IPC were added lateron), registered at Police Station Sector 40, District Gurugram.

The petitioner was granted anticipatory bail by the Sessions Court vide order dated 21st June, 2021. Lateron Sections 406, 467, 468 and 120-B IPC were added. The petitioner moved a petition for anticipatory bail which was dismissed, hence, the present petition.

Learned State counsel submits that the petitioner was served notice under Section 41-A Cr.P.C., instead of responding to the notice, a petition under Section 438 Cr.P.C. was filed.

Mr. D.S. Kohli, Advocate and Mr. Shrey Asnat, Advocate appear for complainant and opposes the prayer for grant of anticipatory bail.

The issue to be considered at this stage is as to whether there is an apprehension of arrest.

Supreme Court in **Pradeep Ram Versus State of Jharkhand and another**, 2019 AIR (Supreme Court), 3193, held as under:

"27. Relying on the above said order, learned counsel for the appellant submits that respondent State ought to get first the order dated 10.03.2016 granting bail to appellant cancelled before seeking custody of the appellant. It may be true that by mere addition of an offence in a criminal case, in which accused is bailed out, investigating authorities itself may not proceed to arrest the accused and need to obtain an order from the Court, which has released the accused on the bail. It is also open for the accused, who is already on bail and with regard to whom serious offences have been added to apply for bail in respect of new offences added and the Court after applying the mind may either refuse the bail or grant the bail with regard to new offences. In a case, bail application of the accused for newly added offences is rejected, the accused can very well be arrested. In all cases, where accused is bailed out under orders of the Court and new offences are added including offences of serious nature, it is not necessary that in all cases earlier bail should be cancelled by the Court before granting permission to arrest an accused on the basis of new offences. The power under Sections 437(5) and 439(2) are wide powers granted to the court by the Legislature under which Court can permit an accused to be arrested and commit him to custody without even cancelling the bail with regard to earlier offences. Sections 437(5) and 439(2) cannot be read into restricted manner that order for arresting the accused and commit him to custody can only be passed by the Court after cancelling the earlier bail."

The undisputed facts are that the petitioner was granted anticipatory bail in FIR. Subsequently there was addition of Sections 406, 467, 468 and 120-B IPC. The petitioner was served with notice under Section 41-A Cr.P.C.

Notice under Section 41-A is issued by the police officer in case where arrest of person is not required. As per law laid down by the Supreme Court in **Pradeep Ram's case (supra)**, subsequent to grant of bail on addition of Sections, the authorities before proceeding to arrest need not to obtain

order from the Court. In absence of any apprehension of threat as on date, no case is made out for interference in the petition under Section 438 Cr.P.C.

The petition is dismissed of at this stage.

However, it is clarified that the State would be at liberty to avail remedies in accordance with law in case the custody of the petitioner is required.

Since the main case has been decided, the pending application, if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

4th July, 2022
reema

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>