

111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59620-2022
DECIDED ON: 20th DECEMBER, 2022

ARJUN VERMA **....PETITIONER**
VERSUS

STATE OF PUNJAB AND OTHERSRESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sanjeev K. Virk, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked for issuance of direction to the respondents No.2 and 3 to submit the Status Report before this Court in FIR No. 168, dated 18.06.2022, under Sections 304, 452, 323, 506, 148 and 149 IPC, registered at Police Station Division No.8, Jalandhar with further prayer to arrest the accused-persons namely, Shivani, Meenu, Sonia, Deepak, Varun, Amit, Aman and one unknown sikh gentleman and also to present the challan against the accused persons in the trial Court. Further prayer is also made not to harass the petitioner and his family at the behest of accused-persons, as they are illegally threatening the petitioner and his family and pressurizing the petitioner to withdraw the above FIR.

Learned counsel for the petitioner contends that the afore-said FIR was registered at the instance of the petitioner on 18.06.2022. His assertion is that despite the registration of an FIR against the above-named accused persons, neither raid has been conducted till date nor the accused persons have been arrested. The accused-persons are roaming freely and the police is not taking any action against them.

The moot question for determination in the present case would be whether the High Court can direct the authorities to submit status report or to arrest the accused-persons.

As a rule of jurisprudence, it is time and again observed by the Apex Court that it is the sole discretion of the Investigating Agency whether to arrest the accused person or not.

Such an observation has been recently upheld by the Supreme Court in the case of **Vishwanath Biradar v Deepika and Ors. 2021 (3) AICLR 593**, which reads as under:-

"Discretion to take the accused into custody is beyond the jurisdiction of the High Court, it is for the Investigating Agency to take a call whether to arrest or not."

The Bench further observed that "whether an accused is liable to be arrested is based upon the decision of the investigating officer depending upon the material collected during the investigation, which may be conducted in a particular crime."

This Court in the case bearing CRM-M-18831-2022 titled as **"Hansa Singh vs State of Punjab and others "** decided on 12.05.2022 has held as under:-

"18. It is well-settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary to its execution."

A Judge is expected to perform his onerous calling impervious of any public pressure that may be brought to bear on him. If the complainant suspects or believes that the police is purposefully withholding the arrest of the accused person for some reason, then the complainant can submit written objections to the superior officials. Nearly all States now have a State Police Complaints Authorities to handle complaints about the inaction of the police.

Going by the observations of the Apex Court, this Court is of the considered view that this Court cannot decide as to when Investigating Agency should arrest an accused as it is entirely the call of the probe officers. It is beyond the jurisdiction of this Court to direct the police to take someone into custody.

The petitioner is yet to exercise & exhaust his alternative remedies available under the provisions of the Code of Criminal Procedure. Moreover, the petitioner has already submitted a representation dated 20.08.2022 (Annexure P-2) to the Commissioner of Police, Jalandhar and without awaiting the decision of the same, he has hastily approached this Court.

It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.

In view of above discussions, this Court does not find any substance in the prayer made in the present petition which is hereby, dismissed being devoid of any merits.

(SANDEEP MOUDGIL)
JUDGE

20th DECEMBER, 2022
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>