

CRM-M-3781 of 2025

2025:PHHC:010018



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

CRM-M-3781 of 2025

Date of decision: 23.01.2025

Subhan Farooqi

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Samay Singh Sandhawalia, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. Instant petition has been filed under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 for directing the respondents to not to take any coercive steps against the petitioner in criminal proceedings emanating out of FIR No.193 dated 03.12.2024 registered under Section 69 of the BNS, 2023 (former Section 376 IPC) at Police Station Amargarh, District Malerkotla.

2. Learned counsel for the petitioner submits that vide order dated 09.01.2025 *ad interim* anticipatory bail was granted to the petitioner and in pursuance thereto the petitioner has joined the investigation on 11.01.2025. However, thereafter, he has been issued notice under Section 35(3) BNSS whereby he has been called to the police station and in the said notice it has been stated that offences under Section 6 of the Protection of Children from Sexual Offences Act and Section 376(2)(n) IPC have been added. He further submits that the father of the petitioner has visited the police station and has



delivered a copy of the judgment of the Hon'ble Supreme Court in ***Pradeep Ram v. State of Jharkhand and another, 2019 SCC OnLine SC 825***, however, the petitioner is apprehending arrest under the added Sections, whereas the respondents are duty-bound to obtain orders from this Court.

3. Notice of motion.
4. Mr. Adhiraj Singh, AAG, Punjab, accepts notice on behalf of the respondents.
5. The Hon'ble Supreme Court in the case of ***Pradeep Ram*** (supra) has held as under: -

“29. In view of the foregoing discussions, we arrive at following conclusions in respect of a circumstance where after grant of bail to an accused, further cognizable and non-bailable offences are added:-

- (i) The accused can surrender and apply for bail for newly added cognizable and non-bailable offences. In event of refusal of bail, the accused can certainly be arrested.*
- (ii) The investigating agency can seek order from the court under section 437(5) or 439(2) of Cr.P.C., 1973 for arrest of the accused and his custody.*
- (iii) The Court, in exercise of power under section 437(5) or 439(2) of Cr.P.C., 1973 can direct for taking into custody the accused who has already been granted bail after cancellation of his bail. The Court in exercise of power under Section 437(5) as well as Section 439(2) can direct the person who has already been granted bail to be arrested and commit him to custody on addition of graver and non-cognizable offences which may not be*



necessary always with order of cancelling of earlier bail.

(iv) **In a case where an accused has already been granted bail, the investigating authority on addition of an offence or offences may not proceed to arrest the accused, but for arresting the accused on such addition of offence or offences it need to obtain an order to arrest the accused from the Court which had granted the bail.**”

6. In view of the above, the present petition is disposed of with a direction to the police authorities to comply with the abovesaid directions contained in para 29 *ibid*, and the respondents shall be at liberty to proceed further against the petitioner in accordance with law and the law laid down by the Hon’ble Supreme Court in the case of ***Pradeep Ram*** (supra).

23.01.2025
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No