

(2021) 01 P&H CK 0414

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous Petition (M) No. 33604, 32761 Of 2020

Jagpal Singh And
Others

APPELLANT

Vs

State Of Punjab And
Others

RESPONDENT

Date of Decision: Jan. 29, 2021

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 166A, 201, 242, 295A, 323, 342
- Scheduled Caste And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 - Section 3(1)(iv), 3(1)(v), 4
- Punjab Police Act, 2007 - Section 67
- Information Technology Act, 2000 - Section 66(E), 67(A)

Citation: (2021) 01 P&H CK 0414

Hon'ble Judges: Sudip Ahluwalia, J

Bench: Single Bench

Advocate: Guninder S. Brar, B.S. Sewak, Manju Goel, Kanwaljit Singh, Gautam Dutt

Final Decision: Disposed Of

Judgement

Sudip Ahluwalia, J

CRM-M No.33604 of 2020 (O&M)

Ld. Counsel for the State submits that after completion of investigation, Challan has already been submitted against the accused persons in the Ld.

Trial Court.

2. To that extent the present Petition would appear to have been rendered infructuous and is disposed off as such.

3. In case, the Petitioners have any grievance against the Final Report/Challan submitted against the accused persons, they are at liberty to seek

appropriate remedy in accordance with law.

CRM-M No.32761 of 2020 (O&M)

CRM No.1267 of 2021 and

CRM No.30672 of 2020

Allowed as prayed for.

Main Case

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR

No.0106, dated 04.07.2020, registered under Sections 166-A, 295-A, 323, 342 (wrongly typed as 242), 201 of the Indian Penal Code, Sections 3(1)(iv),

3(1)(v), 4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 67 of the Punjab Police Act, 2007 and Sections

66(E), 67(A) of the Information Technology Act, 2000, at Police Station City Khanna, District Khanna.

2. After completion of investigation, Challan against the Petitioner has already been submitted.

3. Co-accused-Varun Kumar has already been granted Regular Bail by this Court after completion of investigation qua him in CRM-M No.40446 of

2020 on 15.12.2020.

4. Bail prayer of the present Petitioner is however strongly opposed on behalf of the Complainant, whose Ld. Counsel has sent up on WhatsApp

Group a Video Clipping as also photographs extracted from the same to show that he along with some other persons was stripped and Videographed

inside the Police Station of which the Petitioner happened to be the Officer In-charge at the relevant time. Ld. Counsel for the Complainant thereafter

submits that the Petitioner wields high influence being a Police Officer, and thereafter would be in a position to create wrongful pressure upon his

Client during trial on account of which he submits that the Petitioner should be detained in custody till the next date fixed in the Ld. Trial Court i.e.

03.02.2021 so as to enable the Complainant to give his evidence before the said Court on that date. Ld. Counsel for the Complainant has separately

sent up on E-mail a copy of the order passed by the Ld. Trial Court/Additional Sessions Judge, Ludhiana on 22.01.2021, from which it transpires that

the date has been actually fixed for 03.02.2021 for the Petitioner's production and consideration on the point of taking voice sample.

5. It is therefore clear that the next date fixed by the Ld. Trial Court is certainly not meant for recording evidence of either the Complainant or anyone

else from the prosecution side. Consequently, the Court asked the Complainant's Counsel to clarify as to whether the Charges in the case have

already been framed, to which his answer was 'No'.

6. This position would tend to indicate that deposition of the Complainant as a prosecution witness is certainly some way off at this stage, and not likely

to be taken up any time very soon, since consideration and framing of charge is a sine qua non before commencing evidence from the prosecution side

in a warrant triable case arising out of the Police Report.

7. Faced with this Ld. Counsel for the Complainant submits that the Ld. Trial Court can be asked to frame the charges on the date already fixed.

8. This Court however does not agree with the nature of such submission. The Complainant cannot be permitted to dictate his own methodology

regarding the procedure to be followed by the Trial Court just with a view to ensure that the accused against whom the Final Report has already been

submitted is not able to get released on bail on one pretext or the other. This is so because when the offences imputed to the Petitioner are taken up

for consideration i.e. offences under Sections 166-A, 295-A, 323, 342, 201 of the Indian Penal Code, Sections 3(1)(iv), 3(1)(v), 4 of the Scheduled

Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 67 of the Punjab Police Act, 2007 and Sections 66(E), 67(A) of the

Information Technology Act, 2000, it is seen that the most heinous amongst the same happens to be the one under Section 67(A) of the Information

Technology Act, 2000 for which the maximum punishment prescribed is imprisonment upto seven years, followed by the offence under Sections 3(1)

(iv) and 3(1)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for which the maximum prescribed punishment is

imprisonment for five years.

9. In these circumstances, this Court is of the view that further detention of the Petitioner at this stage for an indefinite period is not called for, and his

further incarceration after completion of investigation against him should not be punitive in nature considering that by now he has already remained in

detention for nearly five months since 05.09.2020, particularly when Co-accused Varun Kumar has already been released on bail.

10. The Petitioner is therefore permitted to be released on bail subject to the appropriate terms and conditions to the satisfaction of the Ld. Trial

Court/Duty Magistrate concerned.

11. Further, it is directed that the Superintendent of Police, Khanna, District Ludhiana who is Respondent No.6 in the connected CRM-M No.33604 of

2020, shall take appropriate steps to ensure that no threat or pressure at the behest of the Petitioner is exerted upon the Complainant during pendency

of the entire trial, and the Complainant is also at liberty to seek cancellation of the bail, if he can show any tangible material before the Court

concerned indicating any threat to his personal security or any kind of undue pressure being exerted upon him on behalf of the Petitioner.

12. Disposed off.