

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

CRM-M-22051 of 2015 (O&M)

Date of decision : 17.11.2015

Harinder Singh @ Kaka

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Naveen Sharma, Advocate for the petitioner.

Ms.Harsimrat Rai, DAG Punjab.

Mr. P.S.Punia, Advocate for the complainant.

JITENDRA CHAUHAN, J. (Oral)

The present petition under Section 438 of the Code of Criminal Procedure (for short, 'the Cr.P.C.), has been filed seeking anticipatory bail in FIR No.76 dated 9.6.2015, registered under Sections 324, 323, 341, 148, 149, 379, 325 of the Indian Penal Code, at Police Station Payal, Distt. Khanna.

Learned counsel refers to FIR (Annexure P-1) to contend that there is no specific attribution to the petitioner with regard to offence under Section 379 IPC. Section 379 IPC has been added only to deny bail to the petitioner otherwise also the petitioner is cousin of the complainant. It is asserted that dispute is *interse* the family. Allegedly, a purse containing ₹4000/-, mobile phone and empty milk drum were

taken but the same is not reflected in the FIR. The injuries attributed to the petitioner are on non vital parts. The petitioner has joined investigation.

On the other hand, learned State counsel submits that the petitioner gave a *kirch* blow on the left arm of injured Avtar Singh. Though the petitioner has joined investigation but recovery of empty milk drum, mobile phone and the purse containing an amount of Rs.4000/- allegedly taken away from the complainant, is yet to be effected. The incident took place on 7.6.2015 whereas the medicolegal report Annexure P-2 was prepared on 9.6.2015.

Heard.

From the perusal of the FIR, there is no specific allegation against the petitioner with regard to snatching of mobile phone, empty milk drum and purse containing ₹4000/-. It is also to be noticed that incident took place on 7.6.2015 whereas MLR was prepared on 9.6.2015. The injury noticed on 9.6.2015 was not seen on the person of the injured nor the injured brought it to the notice of the doctor on 7.6.2015.

Keeping in view the above that there is considerable delay of 2 days in carrying out medicolegal report (Annexure P-2) and particularly in view of the observation that injury on the basis of which Section 325 IPC has been added, was neither brought to the notice of the doctor nor was observed by the doctor, this Court feels that the

petitioner deserves concession of bail.

Accordingly, the petition stands allowed and interim order dated 3.8.2015 is made absolute. However, anything said here-in-above shall not be construed as an expression of opinion on the merits of the case.

17.11.2015
Meenu

(JITENDRA CHAUHAN)
JUDGE.