

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

CRM-M-3624 of 2015

Date of Decision: August 20, 2015

Mahender Singh Malik

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.S.K. Garg Narwana, Sr. Advocate with
Mr.Naveen Gupta, Advocate
for the petitioner.

Mr. Pawan Gaur, DAG, Haryana.

Mr. A.P.S. Deol, Sr. Advocate with
Mr. H.S. Mavi, Advocate
for the informant.

NARESH KUMAR SANGHI, J (Oral)

Prayer in this petition, filed under Section 438, Cr.P.C.,
is for grant of anticipatory bail to petitioner, Mahender Singh
Malik, who has been booked for having committed the offence
punishable under Section 307 read with 34 IPC in a case arising
out of FIR No.7 dated 04.01.2015 registered at Police Station, City

Fatehabad, District Fatehabad.

Learned senior counsel submits that there was motive on the part of informant, Balwant Singh Dhanda and his son Vikas (injured) to falsely implicate the petitioner; Infact the petitioner had lodged a complaint with the Police against Vikas and his family members on the basis of which FIR for the offence punishable under Section 498-A IPC etc. was registered. The petitioner had also filed a complaint before learned Area Judicial Magistrate against Vikas and others; (informant side) in which the summoning order was passed; as per the prosecution case, CCTV footage of the place of occurrence was taken into possession by the Investigating Agency but the same did not corroborate the version set up by the informant side; the injuries received by Vikas would not attract the provisions of Section 307 IPC; from Government Hospital, Fatehabad where Vikas was medico legally examined after the incident was taken to Sarvodaya Hospital, Hisar and the Doctors working there had earned bad names for issuing wrong medical opinions, attracting the provisions of Section 307 IPC; a case of Motor Vehicle accident has been converted into a case of attempt to murder; Sandeep one of the prosecution witnesses has executed his affidavit on oath that Vikas had met with an accident but not in the manner as propounded by

the prosecution and that the petitioner has joined the investigation and his custodial interrogation is not required.

On the other hand, Mr. Pawan Gaur, learned Deputy Advocate General, Haryana assisted by Mr.A.P.S. Deol, learned Senior Advocate for the informant submits that the contents of the FIR registered at behest of the petitioner against Vikas and others, were found to be false after investigation; the summoning order passed by learned Judicial Magistrate, Fatehabad was stayed by this Court; there was motive on the part of the petitioner to have caused injuries to Vikas injured since Vikas had a dispute with his wife, who happens to be the daughter of the petitioner; Vikas, injured had come to India two days prior to the incident; as per the contents of FIR, the occurrence was witnessed by Balwant Singh Dhanda, father of injured Vikas and Mohan Sharma, a friend of the injured; both of them have stated in one word that the petitioner with an intention to kill Vikas, hit him with a car being driven by petitioner. Vikas has also corroborated the version of his father, Balwant Singh Dhanda and eye-witness Mohan Sharma; four grievous injuries on different parts of his body received by Vikas cannot be self-inflicted, self-suffered or by friendly hand; the occurrence had taken place on 04.01.2015 at 11:15 a.m. and within 15 minutes thereafter Vikas was medico legally examined

by the Medical Officer of Civil Hospital, Fatehabad; it was mentioned in the medico legal report that it was a case of road side accident; it was also mentioned in the medical report that Vikas was brought to the hospital by Mohan Sharma an eye-witness of the occurrence, which would show that Mohan Sharma was present at the spot at the time of incident; CCTV footage taken into possession is being got examined from the experts and that in view of serious nature of the offence committed by the petitioner, he is not entitled to the concession of the pre-arrest bail.

I have heard learned counsel for the parties and with their able assistance gone through the police file brought by ASI, Kuldeep Singh, Police Station Fatehabad, District Fatehabad.

As per the prosecution version, the petitioner, Mahender Singh Malik is the father-in-law of Vikas injured. Vikas and his wife were not maintaining healthy relations. Vikas started residing in Canada. Two days prior to the occurrence, he had come back to India from Canada. On the fateful date i.e. 04.01.2015 at about 11:15 a.m. Vikas along with his father came out of the shop of his friend Mohan Sharma to go to his house. When Vikas and his father had hardly covered a distance of 50-60 feet from the shop of his friend, Mohan Sharma, in the meantime,

the petitioner emerged there in his Toyota car bearing registration No. HR-22-G-6732 and directly hit Vikas with an intention to kill him. As a result thereof, Vikas fell down on the road and in the lying condition Vikas was dragged up to the other end of the road. The petitioner along with his car ran away from the spot. The occurrence was witnessed by Balwant Singh Dhanda (informant) and Mohan Sharma PW. Both of them carried Vikas to Government Hospital at Fatehabad where he was examined by the Doctor and advised that he be taken to Medical College at Agroha. However, the informant side in its wisdom carried Vikas to Sarvodaya Hospital at Hisar, where he was radiologically examined and admitted for further treatment. As many as four fractures on different parts of his body were found by the doctors. During investigation, Medical Board consisting of three doctors was constituted and they declared that injuries on the person of Vikas were grievous in nature. The motive as alleged by both the sides for causing injuries and for false implication is a double-edged weapon. Petitioner alleged that there was a motive for his false implication while the informant's side alleged that there was a motive for attempt to commit murder of Vikas. The motive by itself might not be a ground for judging the innocence or the culpability of the accused. The same has to be judged in favour of

either party on the basis of material available on record. In the present case, after going through the medical record, this Court is of the considered opinion that the injuries detected by the Medical Officers on the person of Vikas could not be self-inflicted, self suffered or by friendly hand. The said injuries are possible if a person is hit by a motor vehicle. Since the learned senior counsel representing the petitioner has vehemently argued that a case of an accident has been converted into a case under Section 307 IPC and the petitioner has been falsely implicated in the case, does not appears to be correct at this stage. If Vikas had received the injuries due to fault of any other person then he, his father and friend would not have allowed the real culprit to go scot free. So far as the different arguments raised by learned counsel for the petitioner are concerned those are to be answered by learned trial Court after scanning the material to be produced before it. It is suffice to mention that the prosecution has collected sufficient evidence that there was a motive on the part of the petitioner to cause injuries to Vikas and in furtherance of the same, the petitioner caused multiple injuries including the four fractures to Vikas.

In view of the serious nature of the offence committed by the petitioner, he cannot be extended the benefit of pre-arrest

bail.

Dismissed.

The observations made hereinabove are for the limited purpose of deciding the present petition for pre-arrest bail and shall not be construed as an expression of the opinion of the Court on the merits of this case.

Police file brought by ASI, Kuldeep Singh, Police Station Fatehabad, District Fatehabad has been returned to him in intact condition.

(NARESH KUMAR SANGHI)
JUDGE

August 20, 2015
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