

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-21080 of 2016 (O&M)
DECIDED ON: JULY 25, 2016

HARPREET SINGH @ HANI

....PETITIONER

VERSUS

STATE OF PUNJAB.

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Siddharth Gupta, Advocate
for the petitioner.

Mr. J.S. Sekhon, AAG, Punjab.

Mr. Sarabjeet Singh Khaira, Advocate
for the complainant.

JASPAL SINGH, J

CRM No. 19369 of 2016

Application is allowed, as prayed for.

CRM No. M-21080 of 2016

By virtue of this petition preferred under Section 438 Cr.P.C.,
petitioner has sought pre-arrest bail in case bearing FIR No. 49 dated March 26,
2016 under Section 324, 323, 5-6 and 34 IPC (Section 326 IPC added later on

vide Rapat No. 33 dated 17.05.2016) registered at Police Station Civil Lines Bathinda, District Bathinda (Annexure P-1).

2. The above-mentioned FIR was got registered at the instance of Sukhbir Singh on the allegation that petitioner and his brother are having a rented shop of repairing of electric goods in front of his house. Petitioner alongwith his brother and some unknown persons used to create nuisance at the shop. When complainant and his brother had asked them not to do so, they opened an attack upon him. At the time of occurrence petitioner was armed with an iron rod and dealt its blow on the forehead of Lakhbir Singh. On examination, the said injury was found to be grievous. Besides it, they also caused other injuries to him.

3. The contention of learned counsel for the petitioner is that petitioner has been falsely implicated in the instant case. In fact, neither any such occurrence took place nor he caused any injury either to the complainant or his brother. Moreover, as per version contained in FIR, there are five injuries stated to have been inflicted upon the body of Lakhvir Singh i.e. on the forehead, in the middle of the head, on the right knee, on the right shoulder and on the left hand but surprisingly, as per the medical record only four injuries were found to be inflicted upon his body. Though, it has been alleged by the complainant that the co-accused of the petitioner namely Mani had also given the blow of handle of the spade on the head of Lakhvir Singh but there is no such corresponding injury as per MLR. This fact makes the entire prosecution story doubtful.

4. It has further been submitted by learned counsel for the petitioner that initially FIR was registered under Section 323, 324, 506 and 34 IPC but

subsequently, without any basis offence under Section 326 IPC was added by the police in connivance with complainant. Similarly, the injuries which are alleged to have been caused with an iron rod would not leave incised wound and in such circumstances, an offence under Section 326 IPC would not be attracted. Moreover, petitioner is ready to join the investigation and to abide by all the terms and conditions imposed by this Court in case he is granted the concession of pre-arrest bail.

5. On the other hand, learned State counsel has opposed the bail submitting that there is specific attribution to the petitioner that he while armed with an iron rod having a sharp end, dealt its blow on the forehead of Lakhvir Singh. The said injury falls within the purview of Section 326 IPC. He further submits that weapon used during the course of occurrence is still to be recovered which is only possible through custodial interrogation. Otherwise also, their being serious allegations against the petitioner, he does not deserve the concession of pre-arrest bail.

6. This Court has given a deep thought to the rival submissions made by learned counsel for the parties but does not find any merit in the submissions made by learned counsel for the petitioner.

7. There are serious and specific allegations against the petitioner that he while armed with an iron rod having sharp end dealt its blow on the forehead of Lakhvir Singh. Besides it, they also inflicted some other injuries on his person. An injury appearing on the forehead of Lakhvir Singh, which is an incised wound as per medical record, has been specifically attributed to the present petitioner. The mere fact that initially an FIR was registered under

Section 323, 325, 506 and 34 IPC and an offence under Section 326 IPC was added later on does not *ipso facto* mean that the allegations are wrong. In fact, on the receipt of x-ray report, which discloses grievous nature of injury appearing on the forehead of Lakhvir Singh, offence under Section 326 IPC has been added. Moreover, an iron rod still requires to be recovered.

8. In the given circumstances, this Court is of the considered view that custodial interrogation of the petitioner is necessary to recover the weapon and further that in the absence of interrogation of the petitioner the investigation of this case is likely to be stultified.

JULY 25, 2016
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(JASPAL SINGH)
JUDGE