

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

**CRM No. M-41485 of 2016
DECIDED ON: NOVEMBER 29, 2016**

ARSHPINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Jatinderpal Singh, Advocate
for the petitioner.

Mr. P.S. Paul, DAG, Punjab.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Section 438 Cr.P.C., petitioner has sought pre-arrest bail in case FIR No. 64, dated 21.09.2016, under Sections 323, 324, 326 and 34 IPC, registered at Police Station Kotbhai, District Shri Muktsar Sahib, Punjab.

The contention of learned counsel for the petitioner is that petitioner has been falsely implicated in the instant case, which has been lodged after a delay of 8 days and is also a result of due deliberation and legal consultation. Moreover, the alleged grievous injury is on the non-vital part i.e. on the left little finger only, of the accused alleged to have been caused with a “gandasi”. In fact the other injuries caused within the ambit of Sections 323 and 324 IPC only, which are bailable offences. In fact, the instant case is nothing but a result

of civil litigation pending between the parties. It was the complainant party, who has been causing interference into the peaceful possession of the plaintiffs over the land measuring about 9 marlas regarding which interim stay is already there in favour of the petitioner. Petitioner is ready to join the proceedings and undertakes to abide by all the terms and conditions imposed by this Court, in case he is granted the concession of pre-arrest bail.

On the other hand learned State counsel has strongly opposed the petition and has submitted by controverting all the pleas taken by the petitioner that the criminous participus of the petitioner is fully established. Moreover, the custodial interrogation of the petitioner is also required for the recovery of weapon used during the course of occurrence.

This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and have gone through the record available on file.

No doubt the little finger of the left hand of the complainant is alleged to have been amputated due to the infliction of a gandassi blow but there is a debatable question as there were no signs of blood mentioned in the MLR of little finger and there is no injury to the adjoining fingers. It is also an undisputed fact that civil dispute is already pending in between the parties in which the complainant party has been alienated from interfering in possession of the petitioners' land partly and the registration of FIR is after the operation of the stay order. There is also contradiction with regard to the medical evidence as well as the way in which the grievous injury is alleged to have been inflicted. Jaskaran Singh is alleged to have received only simply injuries. Even the kind of weapon used against him is also said to be blunt as per his MLR. Whereas,

in the ocular version he is alleged to have been used gandassi. Moreover, the co-accused of the petitioner has already been granted the concession of bail by learned Additional Sessions Judge, Sri Muktsar Sahib.

In view of the totality of the facts and circumstances, nature of injuries and the civil litigation pending between the parties, this Court is of the view that a case is made out to exercise the discretion enshrined under Section 438 Cr.P.C.

Consequently, instant petition is allowed and petitioner is directed to appear before the Investigating Officer on 05.12.2016 at 11.00 AM. In doing the petitioner so he shall be released on pre-arrest bail at the satisfaction of the Arresting Officer/Investigating Officer subject to the conditions, as envisaged under section 438(2) Cr.P.C

NOVEMBER 29, 2016
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(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned *Yes/No*

Whether Reportable *Yes/No*