

CRM-M-6136-2016

Date of Decision : 17.05.2016

Raj Kishore

.....Petitioner

versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. Gourav Goel, Advocate
for the petitioner.

Ms. Harpreet Kaur Athwal, DAG, Punjab.

Mr. Munish Kumar, Advocate
for the complainant.**M.M.S. BEDI, JUDGE (ORAL)**

Petitioner is husband of complainant Monika. He apprehends arrest in a case registered at the instance of Monika alleging that he had attacked and assaulted her while she was waiting at the bus stand with her son. The petitioner is attributed a dattar blow on the posterior side of the left arm of the complainant besides leg blows.

Counsel for the complainant has intervened to oppose the application for pre-arrest bail contending that there is matrimonial dispute pending between the complainant and the petitioner is habitual of committing cruelty to the complainant.

Pursuant to the interim order passed by this Court, the petitioner has joined investigation.

Counsel for the petitioner has placed strong reliance on the photographs (Annexure P-2) indicating that at the time of alleged occurrence, he was not present on the spot i.e. Sultanpur Lodhi, District

Kapurthala and was rather withdrawing money in an ATM which is situated near Thapar College, Patiala.

I have heard learned counsel for the petitioner, counsel for the complainant as well as learned State counsel and gone through the police file. The injury which is attributed to the petitioner is a bone cut only. I have also gone through the x-ray film which indicates that it will certainly be a debatable issue whether the injury attributed to the petitioner would attract under Section 326 IPC as the injury has not been detected to be a fracture. In view of above circumstances, the custodial interrogation of the petitioner does not appear to be necessary. The petition is allowed. Interim order dated 19.02.2016 is hereby made absolute subject to the conditions that :-

- 1) Petitioner will join investigation as and when required by the investigating officer.
- 2) Petitioner will not indulge in similar activity during the entire period of trial.
- 3) Petitioner will not tamper with the evidence and will not in any manner threaten the witnesses or any person conversant with the facts of the case.

In case of violation of any of the above said conditions, it will be open to the petitioner to approach this Court for cancellation of bail.

Nothing said in this order will prevent the parties to enter into a compromise, this being a matrimonial dispute, between the parties.

(M.M.S. BEDI)
JUDGE

17.05.2016
Neha