

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.No.M-10342 of 2017(O&M)

Date of Decision: May 05, 2017

Arun Mahajan and anotherPetitioners

Versus

State of PunjabRespondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.R.Kartikeya, Advocate for the petitioners.

Ms.Harpreet K.Athwal, Deputy Advocate General,
Punjab.

Mr.Vikas Chatrath, Advocate for the complainant.

<><><>

TEJINDER SINGH DHINDSA, J.

The petitioners seek concession of anticipatory bail in case FIR No.184 dated 11.9.2016, registered under Sections 307, 326, 379B, 324, 325, 341, 506, 148 and 149 of the Indian Penal Code at Police Station Division E, Police Commissionerate, Amritsar.

2. Briefly, it may be noticed that FIR came to be registered on the complaint of one Dr.Krishan Thakur. Allegations are pertaining to an occurrence dated 12.8.2016 and in which the complainant was assaulted and inflicted grievous injuries by Ashwani Mahajan son of Roop Kumar Mahajan as also the present petitioners, namely, Arun Mahajan son of Roop Kumar Mahajan and Savi Mahajan son of Ashwani Mahajan. It was alleged that while the complainant was going along with his wife, he was

encircled by the afore-mentioned three persons along with certain others. Lalkara was raised to teach the complainant a lesson for having filed a case against the Mahajans. Insofar as the present petitioners are concerned, the specific attribution is of Arun Mahajan having attacked with a 'Datar' (sharp edged weapon) which hit on the right side of the head of the complainant as also on his right hand. The role attributed to Savi Mahajan, petitioner No.2 is of infliction of kirpan blows on the left side of the head and also on the left hand.

3. Learned counsel appearing for the petitioners would argue that the version set up by the complainant is highly improbable. The alleged incident is stated to have occurred on 12.8.2016 in broad day-light, but there is no independent witness to support the complainant's version except one Jitender Sareen. It is argued that if such an assault had actually taken place and that also in a public thorough-fare, then passers-by and locals would have certainly intervened. Veracity of the complainant's version is questioned even on the count that the complainant got himself admitted on 12.8.2016 at Government Medical College, Amritsar and left the Hospital without getting the MLR and proceeded to take admission in a private Hospital, namely, Amandeep Hospital, Amritsar. The complainant thereafter is stated to have come back to the Government Hospital on 20.8.2016 with an application for MLR. Learned counsel contends that no explanation is coming forth for delaying the MLR over a period of eight days. It is also argued that even if the petitioner was unfit to give a statement on the date of the occurrence i.e.

12.8.2016, he was stated to be accompanied by his wife and who, in turn, could have got the FIR lodged on his behalf. It is argued that an overview of the facts and circumstances are a pointer towards false implication and the motive is that there was already a pending dispute between the complainant and the accused party over use of a common passage.

4. Yet another submission raised is that the challan has been presented only against Ashwani Kumar Mahajan/non-applicant and the present petitioners had been found to be innocent during the course of investigation. They have been summoned to face trial only in pursuance to an application filed under Section 319 of the Code of Criminal Procedure moved by the prosecution having been allowed by the learned Additional Sessions Judge, Amritsar vide order dated 23.2.2017. Learned counsel submits that under such circumstances, custodial interrogation of the petitioners would not be warranted.

5. Mr.Vikas Chatrath, Advocate has put in appearance on behalf of the complainant. Even a response by way of an affidavit dated 18.4.2017 of the complainant along with documents at Annexures R1 to R16 was placed on record.

6. Having heard learned counsel for the parties at length and having perused the case paper book, this Court is of the considered view that the prayer made in the instant petition does not merit acceptance.

7. There are specific allegations against the present petitioners of being armed with sharp edged weapons i.e. a 'Datar' and a kirpan and of having inflicted injuries on the person

of the complainant on 12.8.2016. The injury chart of the complainant Dr.Krishan Thakur under the signatures of the Doctor would be relevant and is re-produced hereunder:

“Injury Chart of Dr.Krishan Thakur

in

FIR No.184 dated 11.9.2016 Thanna E Division Amritsar

U/s 307/326/325/324/341/506/148/149 Cr.P.C.

S. No.	Name of victim	Name of accused	Type of injury	Part of injury	Weapon used	Sharp/ blunt	Crime
1	Dr.Krishan Thakur	Arun Mahajan	Grievous	Right hand	Datar	Sharp	326 IPC
2	-do-	Arun Mahajan	Grievous	Right hand	Datar	Sharp	326 IPC
3	-do-	Arun Mahajan	Grievous	Right hand	Datar	Sharp	326 IPC
4	-do-	Arun Mahajan	Grievous	Right hand	Datar	Sharp	326 IPC
5	-do-	Arun Mahajan	Grievous	Right hand	Datar	Sharp	326 IPC
6	-do-	Arun Mahajan	Grievous	Right wrist joint	Datar	Sharp	326 IPC
7	-do-	Arun Mahajan	Grievous	Right elbow joint	Datar	Sharp	326 IPC
8	-do-	Arun Mahajan	Grievous	Right forearm	Datar	Blunt	325 IPC
9	-do-	Arun Mahajan	Grievous	Right hand	Datar	Sharp	326 IPC
10	-do-	Ashwani Kumar Mahajan	Grievous		Datar	Sharp	326 IPC 307 IPC
11	-do-	Arun Mahajan	Grievous	Injury on Head Right side	Datar	Sharp	326 IPC 307 IPC
12	-do-	Shavi Mahajan	Grievous	Injury on Head left side	kirpan	Sharp	326 IPC 307 IPC
13	-do-	Ashwani Kumar Mahajan	Grievous	Injury on Head Backside	Datar	Blunt	325 IPC 307 IPC
14	-do-	Shavi Mahajan	Grievous	Left hand	Kirpan	Sharp	326 IPC
15	-do-	Shavi Mahajan	Grievous	Left hand	Kirpan	Sharp	326 IPC
16	-do-	Shavi Mahajan	Grievous	Left hand	Kirpan	Blunt	325 IPC
17	-do-	Shavi Mahajan	Grievous	Left hand	Kirpan	Sharp	326 IPC

S. No.	Name of victim	Name of accused	Type of injury	Part of injury	Weapon used	Sharp/ blunt	Crime
18	-do-	Shavi Mahajan	Grievous	Left hand	Kirpan	Sharp	326 IPC
19	-do-	Shavi Mahajan	Grievous	Left hand	Kirpan	Sharp	326 IPC
20	-do-	Shavi Mahajan	Grievous	Left hand	Kirpan	Sharp	326 IPC
21	-do-	Shavi Mahajan	Grievous	Left hand	Kirpan	Sharp	326 IPC
22	-do-	Shavi Mahajan	Grievous	Left hand	Kirpan	Sharp	326 IPC
23	-do-	Shavi Mahajan	Grievous	Left hand	Kirpan	Sharp	326 IPC
24	-do-	Shavi Mahajan	Grievous	Left hand	Kirpan	Sharp	326 IPC
25	-do-	Shavi Mahajan	Grievous	Left arm	Kirpan	Sharp	326 IPC
26	-do-	Shavi Mahajan	Grievous	Left forearm	Kirpan	Sharp	326 IPC
27	-do-	Ashwani Kumar Mahajan	Grievous	Left elbow	Datar	Sharp	326 IPC
28	-do-	Unident-ified person common injuries	Simple	Left shoulder	Stick danda	Blunt	323 IPC
29	-do-	Unident-ified person common injuries	Simple	Right thigh	Stick danda	Blunt	323 IPC
30	-do-	Unident-ified person common injuries	Simple	Left foot	Stick danda	Blunt	323 IPC
31	-do-	Unident-ified person common injuries	Simple	Right foot	Stick danda	Blunt	323 IPC
32	-do-	Unident-ified person common injuries	Simple	Back on its right side of abdomen	Stick danda	Blunt	323 IPC
33	-do-	Unident-ified person common injuries	Simple	Lumber Region	Stick danda	blunt	323 IPC
34	-do-	Unident-ified person common injuries	---	Dental		Not decla-red	

Note: All the injuries from 1 to 27 which are grievous in nature are collectively dangerous to life. If immediate treatment was not given to patient, all the injuries could be fatal to life.

Seal of Thana E.Div.Amritsar

Sd/-
Investigating Officer”

8. The tabulation/injury chart re-produced hereinabove reflects 34 injuries suffered by the complainant. Injuries from Serial Nos.1 to 9 and 11 are attributed to petitioner No.1 and have been opined to be grievous. Injuries at Serial Nos.12, 14 to 26 are attributed to petitioner No.2 and have also been declared as grievous. The version of the complainant as regards injuries inflicted stands corroborated from medical evidence. The allegations, prima facie, indicate a brutal attack launched upon the complainant at the hands of the present petitioners and co-accused.

9. Insofar as delay in lodging of FIR as also getting MLR is concerned, learned counsel appearing for the complainant has adverted to a complaint lodged with Police Station, E-Division, Amritsar on the date of the incident itself i.e. 12.8.2016 and placed on record as Annexure R1 along with affidavit of the complainant. The filing of such complaint and contents thereof are not disputed by learned State counsel. Learned counsel for the complainant asserts that multiple grievous injuries were suffered by the complainant on his hands, fingers, wrist as also head and the Guru Nanak Dev Government Medical College and Hospital, Amritsar not having the super-speciality to take on cases involving exploration and repair of FDS and FDP tendon, nerves,

blood vessels which need Micro Vascular Plastic Surgery. It is submitted on behalf of the complainant that under such circumstances, the complainant sought treatment in a private Hospital i.e. Amandeep Hospital, Amritsar which was well-equipped both in terms of infrastructure and specialized faculty to deal with the kind of injuries that the complainant had suffered. Even such assertion made by learned counsel appearing on behalf of the complainant has not met with any rebuttal by learned State counsel and who rather has supported the availability of specialized medical care and attention at Amandeep Hospital, Amritsar.

10. Learned counsel appearing for the complainant has apprised the Court that the complainant had to undergo a 12-hour long surgery in a private Hospital which included repair of FDS and FDP tendon, nerves, blood vessels i.e. Micro Vascular Plastic Surgery and also underwent scalp re-constructive surgery/Ortho surgery involving 252 stitches.

11. The petitioners cannot be granted any mileage of circumstances that they had not been challaned and subsequently, summoned under Section 319 of the Code of Criminal Procedure. On a pointed query having been put to learned State counsel with regard to the material/evidence collected by the Investigating Agency to have not nominated the present petitioners as an accused in the final investigation report, the only response forthcoming is that an enquiry was underway at the hands of Commissioner of Police, Amritsar and the report had not been submitted and, accordingly, names of petitioners

herein had been kept in column No.2.

12. In view of the discussion hereinabove and in the light of the allegations indicating a brutal attack on the complainant resulting in multiple grievous injuries with sharp edged weapons and the same finding corroboration from the medical record, this Court is not inclined to extend in their favour the concession of pre-arrest bail.

13. Petition is dismissed.

14. It is, however, clarified that the observations made in this order are confined only as regards considering the prayer of the petitioners for grant of anticipatory bail and would have no bearing on the merits of the case.

May 05, 2017

SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: *Whether speaking/reasoned?* *Yes/No*
 Whether Reportable? *Yes/No*