

Sr. No.208
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No. M-35890 of 2016 (O&M)

Date of Decision:31.01.2017

Gurwinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

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

Present:- Mr. Lakhwinder Singh Mann, Advocate,
for the petitioner.

Ms. Harpeet K. Athwal, DAG, Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner pending trial in case FIR No.30 dated 26.04.2016, under Sections 324, 452, 34 of Indian Penal Code (offence under Sections 326, 307 IPC added later on), registered at Police Station Moga Sadar, District Moga.

Brief facts that emanate from pleadings on record are that FIR in question was registered on the statement of Balwinder Singh in relation to an occurrence that took place on 25.04.2016. Present petitioner is in fact son-in-law of the complainant.

Complainant asserted that his daughter Kamlesh Kaur @ Shalu was married to the petitioner and out of the wedlock one male child was born. Further asserted that Kamlesh Kaur had got in touch telephonically with the complainant about a month prior to the occurrence that her husband (present petitioner) used to assault her on a regular basis and as such she called upon the complainant to take her back. Resultantly, on 24.03.2016,

Police Station Mehatpur and upon which the petitioner as also Kamlesh Kaur were summoned to the police station but no settlement/compromise could materialize. Under such circumstances, Kamlesh Kaur as also minor child were brought back to the parental house. Complainant has also asserted that after a lapse of almost 15 days his son-in-law (present petitioner) had come to the village and had thrown a slip of paper and on which it was written that the custody of minor male child be handed over otherwise the complainant party would be burnt alive. Precise allegations are that on 25.04.2016 during the early morning hours, the present petitioner armed with a kirch had made forcible entry in the house of the complainant and had inflicted kirch blows on the right arm, wrist as also on the chest.

Initially FIR was registered under Sections 324, 452/34 IPC and subsequently on the basis of opinion given by the doctor, offence under Sections 326 and 307 IPC were added.

Petitioner is stated to have surrendered on 07.07.2016.

Learned counsel appearing for the petitioner would vehemently contend that perusal of the MLR itself would make out that no case for citing offence under Section 307 IPC is made out. In support of such submission, it is contended that injury No.1 which has been declared to be dangerous to life is an incised stab wound 1.7 cm by .5 cm present obliquely on the front of the chest on the left side. As per submission made by counsel, the depth of the injury has not even been mentioned and as such there is no evidence on the basis of which the doctor has opined such injury to be dangerous to life so as to attract offence under Section 307 IPC. Another limb of such argument is on the date of occurrence as also examination i.e. on 25.04.2016, the complainant had himself signed a

consent form at the Guru Gobind Singh Medical College, Faridkot and he was declared fit for recording of his statement on the following day on 26.04.2016 and which would in itself reflect that the injuries suffered were not serious.

Counsel submits that such factors would in itself indicate that no injuries had been suffered by the complainant which could be termed as dangerous to life. It is also the contention raised by counsel by adverting to the documents placed on record at Annexure P-4 that the petitioner had himself suffered 07 injuries in the occurrence. In support of his prayer in the present petition, counsel contends that the complainant Balwinder Singh has already been examined before the trial Court and as such no useful purpose would be served by detaining the petitioner in further custody.

Having heard counsel for the petitioner at length this Court is of the considered view that prayer raised in the present petition does not warrant acceptance at this stage.

The version of the complainant as regards having been assaulted by his son-in-law (present petitioner) being armed with a kirch finds complete corroboration from the MLR placed on record at Annexure P-3. At the stage of considering the prayer for grant of bail, this Court would not embark upon making any observations with regard to the veracity or correctness of an opinion recorded by the competent doctor at the Guru Gobind Singh Medical College, Faridkot opining an injury to be dangerous to life attracting offence under Section 307 IPC as also an injury having been opined to be grievous and thereby attracting offence under Section 326 IPC.

The submission as regards the complainant having signed a

consent form to be afforded treatment and thereby itself reflecting the injury to be not dangerous to life is found to be totally ill-founded.

Keeping in view the direct attribution to the present petitioner coupled with the motive attributed leading to the occurrence and the seriousness of the offence, this Court is not inclined to grant in favour of the petitioner the benefit of bail at this stage.

Petition dismissed.

31.01.2017

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes