

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

CRM No.M-46144 of 2016 (O&M)

Date of Decision:15.05.2017

Sarwan Singh

--Petitioner

Versus

State of Punjab & another

--Respondents

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

Present:- Mr. S.S. Khaira, Advocate for the petitioner.

Ms. Harpreet K. Athwal, DAG, Punjab.

Mr. APS Rehan, Advocate for the complainant.

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TEJINDER SINGH DHINDSA, J.

This order shall dispose of the instant petition filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.11, dated 18.02.2016, under Sections 452/323/324/148/149 IPC (Sections 325/326 IPC have been added later on), registered at Police Station Ghuman, Batala.

While issuing notice of motion, the following order was passed by this Court on 23.12.2016:

“Inter-alia, it has been contended by learned counsel for the petitioner that petitioner has been falsely implicated in the instant case. Moreover, petitioner's family involved in this case by attributing single injury to each.

Learned counsel for the petitioner further contends that petitioner has only been attributed a simple injury alleged to have caused by 'Datar' on his left leg, which falls within the ambit of Section 324 IPC. The petitioner is ready to join the investigation and cooperate with the Investigating Agency.

Notice of motion for 02.03.2017.

In the meanwhile, petitioner is directed to join the investigation within seven days from the date of certified copy of this order. In doing so, he shall be released on interim bail at the satisfaction of the Arresting Officer/Investigating Officer subject to the conditions envisaged under Section 438(2) Cr.P.C.”

Thereafter, by virtue of an application preferred under Section 482 Cr.P.C., modification of the order dated 23.12.2016 was sought and such application was allowed vide order dated 18.01.2017 in the following terms:

“By virtue of the instant application preferred under Section 482 Cr.P.C., petitioner has sought the modification of order dated December 23, 2016, in case bearing FIR No.11, dated February 18, 2016, under Sections 452, 323, 324, 325, 326, 148 & 149 IPC, registered at Police Station, Ghuman, Batala.

Notice of the application.

Mr. Sandeep Kumar Bansal, Assistant Advocate General, Punjab, accepts notice. Copy of the application be supplied to him during the course of the day.

Learned counsel for the applicant – petitioner contends that at the time of filing of the petition, offence under Sections 325/326 IPC was not mentioned in the FIR, due to which, the offence falling under Sections 325/326 IPC could not be mentioned. Learned counsel further contends that the injury falling within the purview of Section 325/326 IPC has been attributed to the non-applicant and not the petitioner.

Accordingly, application is allowed and order dated December 23, 2016 is modified and it would be deemed that Sections 325/326 IPC are added in the said order.”

Learned State counsel upon instructions from ASI Surinder

Singh would apprise the Court that the petitioner has since joined investigation and even the weapon used in the alleged occurrence i.e. *datar* has since been recovered.

Even though, the injury attributed to the petitioner has been opined to be grievous in nature and thereby attracting offence under Section 326 IPC, yet such injury is on a non vital part of the body.

In the considered view of this Court, the petitioner having joined investigation and the recovery of the weapon having already been effected, prayer made in the instant petition is accepted. Orders dated 23.12.2016 passed in CRM-M-46144-2016 and 18.01.2017 passed in CRM-353-2017 in CRM-M-46144-2016 are made absolute.

Petition disposed of.

15.05.2017

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |