

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30732 of 2017(O&M)

Date of Decision:23.02.2018

Satpal

.....Petitioner

V/S

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.DPS. Bajwa, Advocate for the petitioner.

Mr.Deepak Grewal, DAG, Haryana.

TEJINDER SINGH DHINDSA, J. (ORAL)

This order shall dispose of this instant petition filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.23, dated 15.01.2017 under Sections 323, 324, 148, 149, 506, 332 IPC and 326 added later on instead of Section 324 IPC on 13.03.2017, registered at Police Station City Narwana (Annexure P-1).

On 24.10.2017, the following order was passed by this Court:-

“CRM-33212-2017

Documents mentioned in the application are taken on record subject to all just exceptions.

Application stands disposed of.

CRM-M-30732-2017

Learned counsel for the petitioner submits that petitioner has been attributed Fersa blow on the person of injured Amarjit. While referring to the medical record produced by him, he argues that petitioner had already suffered fracture clavicle, fractures right shoulder, right ribs as mentioned in OPD slip dated 04.10.2016 and was not in a position to participate in occurrence or cause injury using 'Fersa'.

Copy of this medical record has been supplied to learned State counsel. Investigating Officer will inquire into this aspect and report on the next date of hearing.

List on 13.12.2017.

In the meanwhile, petitioner is directed to surrender before the police and join investigation within two weeks. In the event of his arrest being required, he shall be released on interim bail till the next date, subject to his furnishing bonds to the satisfaction of Arresting Officer. However, he shall abide by the terms and conditions as envisaged under Section 438(2)(i) to (iv) Cr.P.C. failing which he shall lose the benefit of interim bail allowed to him.

It is, however, made clear that interim relief has been allowed subject to verification of medical record produced by learned counsel for the petitioner.”

Thereafter when the matter was taken up on 13.12.2017, the following order was passed:-

“Learned State counsel submits that police has taken the opinion regarding fracture suffered by the petitioner, wherein it has been stated that despite the fracture suffered by petitioner, he was in a position to participate in the occurrence.

The opinion of the doctor be placed on file on or before the next date.

List on 23.02.2018.

Petitioner is again directed to keep on joining the investigation as and when required by the investigating officer.”

During the course of hearing today, learned State counsel on instructions from ASI Amar Pal, has furnished an opinion recorded by *Dr. Sumit, Consultant Orthopaedic Surgeon of Ginni Orthopaedic Centre, Sector-14, Hissar*, in which it has been stated that doctor has not opined as to whether the present petitioner was in a position to participate in the occurrence or not on account of fractures suffered.

Clearly, statement made on behalf of the learned counsel for the

State recorded on 13.12.2017 was factually incorrect.

Learned State counsel upon instructions from ASI Amar Pal informs the Court that the petitioner has otherwise joined investigation. There is no recovery that has to be effected from the petitioner.

Learned counsel for the petitioner has argued that it is a case of version and cross-version.

In view of the facts and circumstances noticed hereinabove and coupled with the fact that the petitioner has already joined investigation, his custodial interrogation would not be warranted.

Petition is allowed.

Order dated 24.10.2017 passed by this Court, is made absolute.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

23.02.2018

Anjal

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No