

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

CRM-M-43557 of 2019 (O&M)  
Decided on:- November 06, 2019.

Ashmit.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

**CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.**

\*\*\*\*\*

Present:- Mr. J.S. Bedi, Senior Advocate with  
Mr. Sunil Sihag, Advocate for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

Mr. Pardeep Virk, Advocate and  
Mr. K.D. Sehra, Advocate for the complainant.

Dr. Sunil Aggarwal and Dr. Jawahar Singh in person.

**HARI PAL VERMA, J.**

**CRM-32560-2019**

The documents (Annexures R-1 to R-17 are taken on record  
subject to all just exceptions.

CRM stands disposed of.

**CRM-M-43557-2019**

The petitioner has filed the present petition under Section 438  
Cr.P.C. for grant of anticipatory bail in FIR No.31 dated 19.02.2019 under  
Sections 323, 341, 354, 325, 509, 309 and 379-B read with Section 34 IPC  
registered at Police Station Civil Lines, Sirsa, District Sirsa.

The aforesaid FIR was registered at the behest of complainant  
Usha Kashwan. As per the FIR, on 18.02.2019 at about 05.00 P.M., when she  
was passing through Kookna Wali street so as to go to the market, petitioner

Ashmit started abusing her by calling her name and when the complainant turned back, she found that Rama Bhambu sister of petitioner Ashmit was making her video and after crossing 4-5 houses when she had turned back, she found that Krishna and Manju, who are mother and sister respectively of petitioner Ashmit, had also joined them in abusing and making her video. The complainant tried to stop them, but the petitioner threatened her that he will tear her into pieces and while abusing her, he asked her to call her father. The complainant still asked him that if he had any grudge against her, he can come down and they can talk about it. She further asked him either he should call the police or she will call the police, but in any case, he must not abuse her and make her video. Thereafter, she made a call to the Superintendent of Police and informed him that the petitioner along with women of his family was hurling abuses and making her video. The S.P. had assured her that he will send a PCR and will recover their mobile phone, so as to ascertain what has allegedly been videographed. However, during this process, when she was turning towards her house, Krishna Bhambu came from behind and pulled her (complainant) hair, whereas Rama gave a Danda blow on her right foot due to which she fell down. Thereafter, Ashmit (petitioner) wanted to give a Danda blow on her head and in order to save herself, she raised her right arm and in this process, her right arm suffered injury. Meanwhile, one unknown person also reached there and he pulled her from behind. Thereafter, all the accused thrashed her badly and tried to snatch her mobile phone. Rama told Ashmit (petitioner) that her father is telling her to snatch the mobile phone of the complainant. Since the complainant had recorded the occurrence in her mobile phone, in the process of snatching the mobile phone, Krishna pulled

the complainant from her hair, whereas petitioner Ashmit gave a bite on her left cheek. Rama gave her an injury on the left side of her stomach with a sharp object, which she was holding in her hand. In the meantime, PCR reached the spot and Rama snatched her mobile phone and ran towards her house. Thereafter, Manju caused injury on her left leg. Petitioner Ashmit had stated to drag the complainant inside the house and to kill her after blackening her face. Thereafter, all the accused started dragging her inside and after hearing her cries, the police got down from the vehicle and told the accused that now it is enough and how much they will beat her. During this, Rama gave a fist blow on the left side of her (complainant's) neck, whereas her (Rama's) mother Krishna pushed her towards the wall. The complainant kept on requesting the police to hand over her mobile phone, but the police did not get her mobile phone recovered. They even did not allow her to call at her house from their phone. Thereafter, she called the Superintendent of Police from her father's phone, who had reached the spot by this time. The Superintendent of Police assured her that the DSP Headquarter will reach there shortly, but during this time, Rama had given her phone (which was snatched) to Raja Kaswa and Anandjit, who further gave the phone to petitioner Ashmit and let him run away from there and despite her repeatedly informing the police, ASI Sumeet had allowed him to run away from there and did not get the phone recovered from him. Meanwhile, the DSP Headquarter and the police officials from the Women Police Station also reached there. The complainant had narrated the whole story to them and informed that that during this fight, she was carrying a polythene bag in her hand, which contained her purse, one suit and her personal papers have been

snatched away. In the said purse, an amount of Rs.14,000/- in cash, an ATM card and 3 identity cards were lying. During this fight, the complainant could retain one spectacles of the accused. However, on listening her sufferings, the police authorities had asked her to get herself treated from the hospital and thereafter, her statement will be recorded. After reaching the hospital, she became unconscious because of the injuries suffered in the incident. Thereafter, on gaining consciousness, she got recorded her statement in the presence of her father Jaikaran.

Mr. J.S. Bedi, learned senior counsel appearing for the petitioner has argued that the petitioner is innocent and has falsely been implicated in the case by the complainant. In fact, the complainant has roped the entire family of Hawa Singh including the petitioner, who is son of Hawa Singh. The other accused are Krishna, Rama and Manju, who are mother and sisters respectively of the petitioner. Even other close relatives have also been implicated which include Anandjit Singh, who is son-in-law of Hawa Singh and other relative Raja Kaswa. The complainant is in close relations of the petitioner, as she is cousin sister of Hawa Singh. She is the daughter of real maternal uncle of Hawa Singh (father of the petitioner) and civil litigation as regard one plot of land is already pending between Gopal Krishan (brother of complainant) and Balwant (brother of Hawa Singh) in the court of Sub Divisional Judicial Magistrate, Ellenabad, District Sirsa. In order to settle score with Balwant, who is real brother of Hawa Singh, the present FIR has been registered so as to mount pressure upon them. The police reached the spot and in the presence of police officials, the complainant had demanded her mobile phone from the accused persons. She had alleged that the police

did not help in getting the phone recovered from the accused, but it is highly improbable that a single phone can be handed over to two different persons simultaneously. One mobile phone cannot be snatched by two persons. The complainant has knitted a wider net in order to implicate the entire family of Hawa Singh in this case which is otherwise a false case. The alleged incident had taken place on 18.02.2019, whereas the FIR was registered on 19.02.2019. As per the MLR of the complainant, there is no such bite injury on the person of the complainant and the injuries which have been mentioned in the MLR of the complainant, were with blunt weapon. There is no such evidence wherein the offence under Section 354 IPC is attracted in the case. It is during trial, of course, by leading evidence, the trial Court would adjudicate the culpability of the accused. The complainant is habitual in making complaints and she has made a false and frivolous complaint against Hawa Singh and his family members.

He has further submitted that the medico-legal examination of the complainant was conducted on 18.02.2019 and her second examination was conducted on 28.02.2019. As per the MLR, the injury No.2 is caused with blunt weapon and at the same time, after 18.02.2019, the complainant has not made any complaint to higher authorities as regard her medico-legal report dated 18.02.2019. Therefore, the doctor's opinion cannot be read differently as the doctor has found that the injury No.2 has been caused with blunt weapon. The doctor has not opined in any manner that the complainant was given a bite on her left cheek.

Short reply on behalf of the complainant has been filed in the case. In the said reply, it has been submitted that as the complainant had made

several complaints against Hawa Singh and for this reason, the petitioner had grudge against the complainant. He has played an active role in the occurrence and has given injury on the person of the complainant. He has caused injury on the person of the complainant with Danda which later on found to be grievous in nature. Therefore, the Danda used in the crime is yet to be recovered. Similarly, the petitioner is in possession of the mobile phone of the complainant, but the same has not been recovered. Therefore, his custodial interrogation is required in the case. It is the petitioner who has given a bite to the complainant on her cheek in a public place. Hence, the petitioner has committed the offence under Section 354 IPC as well. The petitioner had dragged the complainant so as to take her in his house to commit another offence, but the public arrival could restrain him in executing this attempt. The injury No.2 on the left cheek of the complainant is due to bite given by the petitioner and the photograph (Annexure R-8) attached with this short reply is sufficient to establish the fact that the said injury is a bite injury. She has also referred the x-ray film (Annexure R-14) to contend that since there was a fracture in her right arm, surgery was conducted and a plate was inserted. Therefore, the injury was quite serious.

I have heard learned counsel for the parties.

In order to seek assistance from the conducting doctor, who examined the complainant, this Court vide order dated October 24, 2019 had required the presence of said doctor to assist this Court in the case. He was confronted with the photograph (Annexure R-8) attached with the reply viz. a viz. the injury referred in the MLR and the photograph attached, as from the bare perusal of the photograph, it shows that there are teeth marks on the left

cheek of the complainant. The doctor, who has come present, on seeing the photograph (Annexure R-8), has submitted that it cannot be ruled out that the marks on the cheek are with bite.

Considering the fact that there are specific and serious allegations against the petitioner which include snatching of mobile phone, which had ultimately been handed over to the petitioner by the co-accused, the allegation of giving bite on the cheek of the complainant and the fact that she has suffered injury on her right arm which led to insertion of plate and bite on her left cheek, this Court finds that no ground is made out to grant anticipatory bail to the petitioner.

Accordingly, the present petition, being devoid of any merit, is dismissed.

It is made clear that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and is confined to the decision of the present application for anticipatory bail only. The trial Court shall not be influenced with the observations made hereinabove in any manner.

**November 06, 2019**  
Yag Dutt

**(HARI PAL VERMA)**  
**JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No