

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

CRM M-21441 of 2020 (O&M)

Date of Decision: November 06, 2020

Lakhanpal

.....Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Kshitij Sharma, Advocate
for the petitioner.

Mr. Baljinder Virk, DAG, Haryana.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through video-conferencing on account of lockdown due to outbreak of pandemic COVID-19.

Petitioner Lakhanpal has moved this first petition under Section 438 Cr.P.C. in case bearing FIR No. 0081 dated 09.05.2017 under Sections (323, 325, 326, 436 deleted vide order dated 12.7.2017 passed by the learned Additional Sessions Judge, Rewari) 452, 294, 506 and 34 IPC registered at Police Station Kosli, District Rewari.

The present case was got lodged by complainant

Giriraj alleging that 25 days prior to this occurrence during night time present petitioner Lakhanpal @ Chikku and Bharat alongwith 3/4 boys came to the house of the complainant and threatened him and, thereafter, ran away. It is alleged that on 07.05.2017 around 09.00 p.m. while accused petitioner Lakhanpal sitting outside the house of the complainant started abusing the complainant and at that time one Pankaj was also present. Enraged accused is alleged to have thrown a stone towards the complainant hitting him on the chest and, thereafter, ran way. After some time, Mahender Singh father of the petitioner, his wife Daya and brother Bharat came armed with sharp edged weapons as well as dandas and upon entering the house of the complainant assaulted him. The allegations against the petitioner are that he too assaulted him.

Shri Kshitij Sharma learned counsel for the petitioner *inter alia* contends that the petitioner and his family and so the complainant have a long history of dispute and rivalry on account of which the petitioner has been falsely implicated. The counsel has drawn the attention of the Court to the medical documents both dated 28.05.2017 to show that it was subsequently by hand an addition has been made to show fracture of the nasal bone which in fact earlier was missing. The counsel has laid much stress on the fact that the complainant has sought to aggravate the allegations by fabricating evidence

and that there is specific role attributed to the petitioner.

Mr. Baljinder Virk, DAG, Haryana, the learned State counsel during the course of arguments fairly concedes the disparity that has come up in the medical documents but has strongly opposed the bail on the ground of seriousness of the allegations.

Going through the submissions in view of the contradictory reflection of the medical opinion in the medical records shown to the Court through e-mail a debatable issue arises over the applicability of offence under Section 326 IPC. Moreover a bare look at the allegations against the petitioner neither he has been attributed any injury and there are only general allegations of his participation in the offence.

Having regarding to the long drawn tussle between the two sides and the fact that culpability if any of the petitioner would be determined upon evidence, this Court deems it appropriate to allow the present petition. Accordingly, the petitioner is directed to appear before the investigating officer within a period of 15 days from the date of receipt of certified copy of this order and on his doing so, he shall be released on bail to the satisfaction of the arresting/investing officer till submission of report under Section 173 Cr.P.C. (challan). The petitioner shall continue to join investigation and shall furnish an undertaking that he shall abide by the conditions specified under

Section 438(2) Cr.P.C. Thereafter, he will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition stands disposed off, accordingly.

November 06, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No