

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.24823 of 2020 (O&M)
DATE OF DECISION: 05.10.2020

Gurpreet Singh @ Gopi

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Manbir Singh Basra, Advocate for the petitioner

Mr. Ramandeep Sandhu, Sr. DAG Punjab for the respondent

ALKA SARIN, J.:

The matter was heard through video conferencing.

This order shall dispose of the present petition filed under Section 438 CrPC for grant of anticipatory bail to the petitioner in a case registered vide FIR No.0081 dated 20.06.2020 for the offences punishable under Sections 323, 324, 34 IPC, and offence under Section 326 IPC added later on, registered at Police Station Bhaini Mian Khan, District Gurdaspur.

The FIR was registered at the instance of the complainant Kulwinder Singh alias Sonu son of Ranjit Singh resident of village Rajubela, Police Station Bhaini Mian Khan who stated that on 17.06.2020 at about 1.30 P.M. he was working in the fields where on the metalled road which leads from Chack Sharif to his village two motorcycles, one motorcycle was being driven by Gurpreet Singh @ Gopi son of Balkar Singh resident of village Abadgarh and the person who was pillion rider was with muffled face and unknown and the person who was on the second motorcycle was also having muffled face and Paramjit Kaur wife of Nishan

Singh resident of village Rajubela was pillion rider to him. Both the motorcycles stopped on the way which passes adjoining to their land. Paramjit Kaur @ Pammi who was empty handed raised a lalkara by saying that he (the complainant) be caught and taught a lesson for demanding money for taking her land on lease. In the meantime, Gurpreet Singh son of Balkar Singh armed with datar and second unknown person armed with datar came to him and Gurpreet Singh gave a datar blow to him and to ward off that blow he raised his right arm and the blow was hit on the elbow of his right arm. Then the unknown person gave a datar blow to him which hit him at his right wrist. The complainant fell down on the ground and then Gurpreet Singh gave a datar blow to him which hit him near the knee of his right leg. The second unknown person gave a datar blow to him which hit him on the calf of his right leg. He raised alarm of “Mar Ditta Mar Ditta”. In the meantime, Manjinder Singh the son of his uncle (Taya) son of Darshan Singh came there and on seeing him all the assailants fled away from the spot with their respective weapons.

The learned counsel for the petitioner has contended that as per the reassessed medical report Annexure P-1 the injury nos.1 and 3 to the complainant were superficial and not serious and there is a possibility of the same having been self-inflicted. He relied upon a report dated 10.07.2020 given by the Medical Board (Annexure P-1). He also contended that a co-accused, Paramjit Kaur, had already been granted anticipatory bail by this Court vide order dated 14.09.2020 passed in CRM-M No.19172 of 2020 [*Paramjit Kaur vs. State of Punjab*].

The learned State counsel has contended that as per the MLR report dated 17.06.2020 the complainant had suffered four injuries of which injury nos.1 and 3 were found to be grievous. He further submitted that the other co-accused are yet to be identified and apprehended and, as such, custodial interrogation of the pe-

On 10.09.2020, the learned State counsel, on instructions from DSP Kulwinder Singh, had brought to the notice of the Court that the complainant was not even examined by the Medical Board whose opinion has been attached as Annexure P-1 to the petition. This Court had thereupon directed that a status-report and an affidavit of the Chief Medical Officer/Senior Medical Officer, Civil Hospital, Gurdaspur be filed stating therein the following :-

- (i) Whether any order for constituting the Board of Doctors was passed by the Director of the Hospital or by the Chief Medical Officer? If yes, copy of the same be attached with the affidavit;
- (ii) Whether the complainant was examined by the Board before giving an opinion? If yes, observations made by the Board during the course of examination be attached with the affidavit;
- (iii) If the complainant was not examined, on what basis has the Board given the opinion?

On 28.09.2020, when this case was taken up for hearing through video conferencing, the learned State counsel filed an affidavit dated 25.09.2020 of Dr. Gurnarinder Singh, Officiating SMO, Civil Hospital, Gurdaspur along with documents Annexures R-I/T to R-V/T. It is stated in this affidavit that the Board of Doctors was constituted by the SMO on 24.06.2020 (Annexure R-I) on the directions of the Civil Surgeon, Gurdaspur (Annexure R-II), the complainant was not examined by the Medical Board, the Medical Board gave its final opinion (Annexure R-V) on the basis of copy of MLR dated 17.06.2020 (Annexure R-III) and Medico-legal X-Ray report dated 20.06.2020 (Annexure R-IV).

The facts of the present case disclosed that the MLR dated 17.06.2020 was prepared on the date of the occurrence. Thereafter, on 22.06.2020 one of the co-accused namely Paramjit Kaur submitted an application to the Civil Surgeon,

suffered by the complainant since, according to her, the injuries were self-inflicted. The Civil Surgeon, Gurdaspur forwarded the request of Paramjit Kaur to the Senior Medical Officer, Civil Hospital, Gurdaspur. On 24.06.2020 the Senior Medical Officer, Civil Hospital, Gurdaspur formed a Medical Board to give its opinion. The Medical Board re-assessed the earlier opinion given on 17.06.2020 and opined that injury nos.1 and 3 were superficial in nature and there was a strong possibility of them being self-suffered or by a friendly hand.

Learned counsel for the petitioner has been unable to satisfy this Court as to how the Medical Board could re-assess its earlier report of 17.06.2020 without even examining the injured i.e. the complainant. Such re-assessments of MLRs at the behest of an accused without there being any request in that behalf by the Police or supported by an order by the Magistrate cannot be accepted at face value. A doubt is created in the mind of the Court as to the motive and intent behind Government doctors re-appreciating their own opinion recorded in a MLR that too at the behest of a private individual without again physically examining the injured and without taking recourse to the machinery of the Police or the Judiciary. The evidentiary value of the re-assessed MLR (Annexure P-1 and Annexure R-V) will be considered during the course of the trial and this Court cannot accept the re-assessed MLR at this stage while considering a petition for grant of anticipatory bail.

The petitioner is alleged to have inflicted injuries to the complainant along with two other persons who are yet to be apprehended. In the MLR dated 17.06.2020 two of the injuries are stated to being grievous. Though another co-accused has been granted anticipatory bail by this Court vide order dated 14.09.2020, the petitioner cannot claim parity since the role attributed to that accused is only of raising a Lalkara.

In view of the above, this Court does not find merit in the present petition and the same is dismissed. It is made clear that nothing mentioned herein above shall be construed as an expression of opinion on the merits of the case.

Before parting, the State of Punjab is called upon to bring its Medico-Legal Manual, in vogue, to the notice of doctors who prepare MLRs and Post Mortem Reports so that the said guidelines are followed in letter and spirit. This manual was also sent to the High Court for information. A copy of this order be also sent to the Principal Secretary, Department of Health and Family Welfare, Government of Punjab.

(ALKA SARIN)
JUDGE

05.10.2020
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NOTE:

Whether speaking/non-speaking: Speaking

Whether reportable: Yes/No