

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

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IN VIRTUAL COURT

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**CRM-M No. 28020 of 2020
Date of decision : 16.9.2020**

Bhupinder Singh @ Prabhinder SinghPetitioner

Vs.

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Ritesh Pandey, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

The present petition has been filed by the petitioner under Section 438 Cr.P.C for grant of anticipatory bail in case FIR No. 86 dated 31.7.2020, registered under Sections 324, 323, 506, 34 IPC (Section 326 IPC added later on), at Police Station Qadian, District Batala.

It is submitted by the counsel for the petitioner that the case against the petitioner is totally concocted. There has been a delay of 17 days in lodging the FIR, Earlier the complainant had caused injuries to the petitioner. The present case has been lodged by the complainant with a motive to take revenge of the fact that, earlier, the petitioner had informed the police regarding the illicit liquor trade of the complainant. Still further, it is submitted that in this very case, on these very facts, the petitioner was arrested earlier. The recovery of the alleged weapon used in the incident, had also been effected by the police. Thereafter, the petitioner was granted bail pending trial by the Court below. Now one more non-bailable section, i.e. Section 326 IPC, has

also been added, therefore, the petitioner is sought to be arrested. However, the injury, which is statedly inviting Section 326 IPC, was in existence even at the time when the petitioner was earlier granted bail. Even the allegation qua use of weapon is not new. The alleged injury is stated to have been caused with the same weapon, which, allegedly, already stands recovered from the petitioner. Hence, exactly on the same set of facts, the petitioner is already on bail pending trial qua the other offences. Therefore, the petitioner deserves to be protected against his arrest qua offence under Section 326 IPC as well. Still further, it is submitted that the petitioner would join the investigation, if so required by the Investigating Officer and shall appear before the trial Court, during the trial, if any. Hence, the petitioner deserves to be protected against his arrest.

Notice of motion.

Mr. Hittan Nehra, Addl. AG, Punjab, accepts notice on behalf of the State.

The counsel for the State, being instructed by ASI Surinder Singh, has submitted that there are specific allegations against the petitioner. After the petitioner was earlier granted bail in this case, the injury caused to the complainant has turned out to be grievous in nature. Therefore, Section 326 IPC has also been added in this case now. Hence, the petitioner deserves to be arrested qua this offence as well. However, it is not disputed that the allegation qua the injury inviting Section 326 IPC is the same and the said injury is alleged to have been caused with the same weapon of offence, which already stands recovered. It is also not disputed that on the same set of facts, before invoking of Section 326 IPC, the petitioner was already granted bail pending trial.

In view of the above set of facts, this Court does not find it appropriate that the petitioner should be arrested again only because of invoking of offence under one more section, particularly, when the weapon of offence already stands recovered and no new fact is alleged by the police against the petitioner; except the change of the section for an offence.

In view of the above, but without commenting any further on the merits of the case, the present petition is allowed. It is ordered that the petitioner shall join the investigation as and when so required by the Investigating Agency. However, in case of arrest, the Investigating Officer is directed to release the petitioner on bail on his furnishing bail bonds/surety to his satisfaction. It is further directed that the petitioner shall also observe the other conditions as required under Section 438(2) of Cr.P.C.

(RAJBIR SEHRAWAT)
JUDGE

16.9.2020

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No