

101

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

* * *

CRM-M-32670-2020

Date of Decision: 16th October, 2020

Jaswinder Singh

Petitioner

Versus

State of Punjab and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Amit Dhawan, Advocate for the petitioner.

Mr. H.S. Multani, Assistant Advocate General, Punjab.

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AVNEESH JHINGAN, J. (Oral)

The matter is taken up for hearing through video conference due to COVID-19 situation.

The present petition is filed for grant of anticipatory bail in FIR No.261, dated 10th September, 2020 under Sections 326, 324 and 323 read with Section 34 of IPC registered at Police Station Shahkot, District Jalandhar.

The FIR was at the instance of complainant-Manjit Kaur. It was stated that the marriage of the petitioner was solemnized with the complainant in the year 2012 (wrongly mentioned as '2011' in Annexure P-1). The couple was blessed with a daughter. The relationship went into troubled water and the marriage was dissolved in the year 2018 by mutual consent. In March, 2020, the petitioner started visiting the house of the complainant, in spite of divorce decree, the couple started staying together. There was an alleged altercation

between the two on 28th February, 2020. It is alleged that root cause of the dispute was that the petitioner wanted to settle in America and his father was supporting the idea. They visited Darbar Baba Bittu Sarkar Rabbe Dattariawale, there were exchange of words between the petitioner and his father, during which the petitioner gave a sword blow to the complainant. She received injury on wrist while saving herself. The father of the petitioner gave a blow with iron-plucker (*chimta*) on the backside of head of the complainant. She was saved by some people and taken to Chopra Hospital, Shahkot. Thereafter, she was admitted to Civil Hospital, Nakodar where she remained admitted for few days. It is also stated in the FIR that there were talks regarding the compromise.

The petitioner moved a petition for grant of anticipatory bail, same was rejected by the Additional Sessions Judge, Jalandhar vide order dated 1st October, 2020.

Learned counsel for the petitioner relied upon an affidavit dated 22nd September, 2020 annexed with the petition to state that the matter was compromised but submits that the complainant has now resiled. He stated that there is a delay in lodging the FIR; there is no grievous injury and Section 326 of IPC was wrongly added. He relied on the fact that the father of the petitioner was granted anticipatory bail by this Court.

Learned counsel for the State opposes the prayer for grant of anticipatory bail. He submits that the injury is by sharp weapon and is grievous in nature. He further submits that recovery of weapon is to be made.

No case is made out for indulgence of this Court to grant pre-arrest bail. The compromise attached is an indicator that the petitioner is in a position to influence the witness and evidence. The delay in FIR will not be fatal as the

petitioner and the complainant were not strangers, they had litigation earlier leading up to divorce, they started living together and yet the trouble continued which resulted in injury suffered by the complainant. It is not expected that registering FIR would be spontaneous. The petitioner cannot claim parity with grant of bail to his father as he was attributed to simple injury that too with a blunt weapon, more over in present case recovery of weapon is to be made.

This Court while dealing with the grant of anticipatory bail has to only consider *prima facie* case and not to weigh the evidence at this stage. The issue regarding wrongly invoking Section 326 of IPC would be considered by the Trial Court at appropriate time.

The petition is dismissed.

It is clarified that observations made hereinabove are only for the purpose of disposing of the prayer of anticipatory bail.

(AVNEESH JHINGAN)
JUDGE

16th October, 2020
pankaj baweja

Whether speaking/reasoned:	Yes
Whether reportable:	No