

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-35198-2020 (O&M)
Date of Decision:-21.12.2020

Shammi Kumar ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Balram Prashar, Advocate for the petitioner.

Mr. Avtar Singh Sandhu, Addl. A.G., Punjab,
assisted by ASI Sukhwinder Singh.

Mr. Vikas Arora, Advocate for the complainant.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.344 dated 20.9.2020 at Police Station City Faridkot, District Faridkot under Sections 450, 326, 379-B and 506 of Indian Penal Code, wherein offences under Sections 379-B and 450 IPC were deleted later on.
2. The allegation in nutshell is that the petitioner bit the ear lobe of the complainant a part of which was severed from the ear.

3. Learned counsel for the petitioner has submitted that although FIR has been lodged in respect of offence under Section 326 IPC as well but since it is a case where no weapon was used for causing the injury in question, it will be debatable as to whether the offence in question would fall under Section 326 or Section 325 IPC.
4. Opposing the petition, learned State counsel has submitted that since it cannot be disputed that a 'grievous' injury has been caused in a brutal manner, no case for grant of anticipatory bail is made out.
5. Having regard to the facts and circumstances of the case, it will certainly be debatable as to whether the offence would fall within the mischief of Section 326 or Section 325 IPC.
6. Learned State counsel, upon instructions from ASI Sukhwinder Singh, has informed that Section 379-B and Section 450 of IPC have been deleted during the course of investigation.
7. In view of the aforestated position wherein it will be debatable as to whether Section 326 IPC is indeed attracted or not especially when the petitioner is not alleged to have used any weapon for causing the injury, the petition is accepted and it is ordered that the petitioner, in the event of arrest, be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
8. The aforesaid order is, however, subject to the condition that the petitioner shall pay an amount of ₹1,00,000/- as unconditional compensation to the

complainant, which may be paid either by way of demand draft or be transmitted in the bank account of the complainant through RTGS or be deposited before the Trial Court, which in case of such deposit shall be released to the complainant. The aforesaid compensation be deposited within a period of two weeks from today. In case the aforesaid amount is not deposited within the stipulated period, this order shall stand cancelled.

21.12.2020

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No