

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

CRM-M-53319-2019
Date of decision: 16.01.2020

Hanish Kumar @ Avineesh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Munish Puri, Advocae
for the petitioners.

Mr. A. P. S. Gill, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No. 113 dated 02.09.2018, registered under Sections 325, 323, 427, 341, 201, 506, 308, 148, 149 of the IPC (Section 326 IPC added later on) at Police Station Division No. 2, Pathankot.

The operative part of the order dated 13.12.2019, vide which the petitioner has been granted interim bail, is reproduced below:

“Learned counsel for the petitioner submits that before adding Section 326 IPC, the petitioner was granted the concession of anticipatory bail vide order dated 29.05.2019 passed in CRM-M-20901-2019. The operative part of the order reads as under: - “The operative part of the order dated 15.05.2019, vide which the petitioner has been granted interim bail, is reproduced below:

“Learned counsel for the petitioner submits that as per the allegations in the FIR, no specific injury is attributed to the petitioner and the allegations are against Sunny as when Shiva, cousin of the

complainant, asked him (Sunny) as to why he is staring at him, Sunny gave two datar blows to him, out of which, one blow hit on his left eye. Thereafter, co-accused Babbu also caused injuries to complainant Vijay Kumar. Learned State counsel, on instructions from ASI Ram Lal, submits that though there is no direct allegation against the petitioner, however, in the incident, victim Shiva has lost the vision of his left eye. In reply, learned counsel for the petitioner submits that petitioner is ready to hand over a sum of Rs. 25,000/- to victim Shiva as compensation, without prejudice to his right to defence during trial. List again on 29.05.2019.” Learned counsel for the petitioner submits that the petitioner, in pursuance to the order dated 15.05.2019, has already appeared before the SHO/Investigating Officer and has joined the investigation. It is also submitted that the petitioner has handed over a sum of Rs. 25,000/- to victim Shiva. Learned counsel for the State, on instructions from ASI Ramesh Kumar, has not disputed the factual position and submits that the petitioner has joined the investigation and is no more required for any further investigation. In view of the above, the petition is allowed and the interim bail granted to the petitioner, vide order dated 15.05.2019, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner further submits that thereafter, the petitioner was appearing before the Investigating Officer and he has also paid a sum of Rs.25,000/- to victim Shiva. It is further submitted that in fact, the injury invoking Section 326 IPC, with regard to causing damage to left eye of victim Shiva, is attributed to

co-accused Sunil Singh @ Sunny and while granting the concession of anticipatory bail to the petitioner, this fact was noticed by this Court. Notice of motion for 16.01.2020.”

Learned counsel for the petitioners submits that the petitioner, in pursuance to the order dated 13.12.2019, has already appeared before the SHO/Investigating Officer and has joined the investigation. It is also submitted that the petitioner has already paid a sum of Rs. 25,000/- to victim Shiva.

Learned counsel for the State, on instructions from ASI Ram Lal, has not disputed the factual position and submits that the petitioner has joined the investigation and is no more required for any further investigation.

In view of the above, the petition is allowed and the interim bail granted to the petitioner, vide order dated 13.12.2019, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

16.01.2020

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No