

207

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

CRM-M-16597-2021

Date of Decision:06.08.2021

PARVEEN AND ANOTHER

.....Petitioner

Vs

STATE OF HARYANA AND OTHERS

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr.Parminster Singh, Advocate
for the petitioners.

Mr. Rajat Gautam, DAG, Haryana.

RAJ MOHAN SINGH, J. (Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C in case bearing FIR No.26 dated 09.03.2021 registered under Sections 308, 323, 34, 506 IPC at Police Station Jhansa, District Kurukshetra.

Notice of motion was issued on 09.07.2021 with the following order:-

*“The case has been taken up for hearing
through video conferencing.*

In compliance of order dated 24.06.2021, the State has filed reply by way of affidavit of Atma Ram, HPS DSP, Shahabad, Kurukshetra on behalf of respondent No.1. As per prosecution case, petitioner No.2 (Bhim) after being annoyed picked up a brick and hit on the head of Maafi Devi. As per MLR of Maafi Devi, she has received two injuries. Injury No.1 is diffuse bruise both upper and lower left eyelids with diffuse swelling. Complaint of vomiting. Advised NCCT head and EYE surgeon opinion. Injury No.2 is abrasion of size 3x0cm on left side of face with fresh bleeding and swelling. Advised x-ray face and surgeon opinion.

Learned counsel submits that the reply filed by the State is silent with regard to medical opinion in respect of injuries on the person of Maafi Devi. A compromise has already been effected between the parties on 07.04.2021.

Notice of motion for 06.08.2021.

On the asking of the Court, Mr. Rajat Gautam, D.A.G., Haryana accepts notice on behalf of State of Haryana.

In the meanwhile, petitioners are directed to appear before the SHO/Investigating Officer to join investigation on 16.07.2021 at 11.00 A.M. and in the event of their arrest, they shall be enlarged on interim bail, subject to their furnishing requisite bail bonds/surety bonds to

the satisfaction of Arresting Officer. However, petitioners shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Nothing expressed hereinabove shall be construed to be an opinion on the merits of the case. The case shall be decided on merits on the adjourned date.

In the meanwhile, State may refer to the doctor's opinion in respect of the injury falling under the ambit of Section 308 IPC.”

Evidently, injured Maafi Devi has received 2 injuries. A compromise has already been effected between the parties on 07.04.2021.

Learned State counsel on instructions from ASI Ranbir Singh, submits that as per medical opinion given by the doctor, the injuries on the person of Maafi Devi were found to be grievous in nature.

As per MLR, injury No.1 on the person of Maafi Devi was diffused bruise both upper and lower left eyelids with diffused swelling and NCCT was advised besides asking for EYE surgeon opinion. Injury No.2 was abrasion of the size of 3x0 cm on left side of face with fresh bleeding and swelling. X-ray of face was advised besides surgeon opinion.

Learned State counsel submits that as per the opinion of the Dr. Deepali Goel, injuries on the person of Maafi Devi

were found to be grievous in nature. There is no opinion of the doctor with regard to injuries being sufficient to cause death in ordinary course of nature or dangerous to life. It would be debatable as to the offence falling under the ambit of Section 308 IPC. Any hurt endangering life would be a grievous hurt in view of Section 320 (Eighthly) IPC and the same would fall under 307 IPC only when the same is declared by the doctor to be sufficient to cause death in ordinary course of nature.

In the absence of medical opinion, no such injury can be presumed since parties have compromised the issue, therefore, I deem it appropriate to confirm the order dated 09.07.2021 is made absolute. Petitioners shall keep on joining the investigation as and when required to do so and they shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Petition stands disposed of.

06.08.2021
sangeeta

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No