

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

CRM-M-32399-2021.
Date of Decision:-12.08.2021.

Happy

.....Petitioner

Versus

State of Punjab

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. S.S. Sidhu, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is a first petition filed by the petitioner under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No.0248 dated 14.12.2020 under Sections 323, 324, 506, 148 and 149 IPC (offence under Section 307 IPC added later on), registered at Police Station Sadar, Patiala, District Patiala.

Mr. Ravinder Singh, Advocate, has put in appearance on behalf of the complainant and filed his *vakalatnama*. The same is taken on record.

Learned counsel for the petitioner has vehemently argued that initially FIR was registered under Sections 323, 324, 506, 148 and 149 IPC,

in which the accused were arrested and released on bail. It has further been argued that it is after a delay of six months that offence under Section 307 IPC has been added and the petitioner had already joined the investigation and whatever was to be recovered has already been recovered from him. It has also been submitted that in the present case, there is a marital dispute between the sister of the petitioner and the brother of the complainant and it is, thus, submitted that the petitioner has been falsely implicated. It is further submitted that the petitioner is ready to join the investigation.

This Court has heard learned counsel for the parties.

A perusal of the FIR as well as the record would show that the allegation against the petitioner is that the petitioner had inflicted injury with a sharp-edged instrument on the back side of the left shoulder of the complainant. Subsequently, on the report of Dr. Abhijeet Sehrawat, Junior Resident, Department of Forensic Medicine, Rajindra Hospital, Patiala, it was found that the said injury, apart from being grievous in nature, was also dangerous to life by virtue of which, Section 307 IPC has been added. The relevant portion of the said report which has been reproduced in Annexure P-2 is reproduced hereinbelow:-

*“xxx-xxx--AND AFTER GOING
THROUGH CT SCAN FINDING DATED 17 DEC. 2020
AND REPORTED BY DR UMESH JR
RADIODIAGNOSIS SHOWS LEFT SIDED
MEDERATED HAEMOPNEUMOTHORAX WITH*

PASSIVE ATLECTASIS OF ADJACENT BASAL SEGMENTS AND PULMONARY CONTUSION WITH TRAUMATIC PNEUMATOCELE WITH SUBSEGMENTAL ATELECTASIS IN RIGHT LOWER LOBE AND ICD WAS INSERTED IN LEFT SIDE OF CHEST UNDER LA, AFTER GOING THROUGH FILE INJURY NO.1 IS GRIEVOUS IN NATURE, IN THE ABSENCE OF SURGICAL INTERVENTION PERSON COULD HAVE DIED. Sd/- DR. ABHIJEET SEHRAWAT JUNIOR RESIDENT Deptt OF FORENSIC MEDICINE RAJINDRA HOSPITAL PATIALA. On the basis of the opinion of the doctor a Section 307 IPC is added to the case. After preparing the special report the same is being sent to you.”

A perusal of the same would show that the Government Doctor has given detailed reasons to state that the injury which is attributed to the petitioner is not only grievous in nature but would have also been fatal, had surgical intervention not been done. The petitioner had applied for anticipatory bail in the Court of Additional Sessions Judge, Patiala after the provisions of Section 307 IPC had been added and the same was dismissed after considering the said medical opinion. Thus, this Court is not inclined to grant anticipatory bail to the petitioner.

The argument of learned counsel for the petitioner to the effect

that the petitioner was earlier released on bail, does not further the case of the petitioner, inasmuch as earlier the offences that had been mentioned were under Sections 323, 324, 506, 148 and 149 IPC and the medical opinion was not there on record and it is only after the medical opinion from a Government Hospital has been obtained that Section 307 IPC has been added.

In view of the above, the present petition for anticipatory bail is dismissed.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case.

(VIKAS BAHL)
JUDGE

August 12, 2021.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.