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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No. 29884 of 2020 (O&M)
Decided on: 23.08.2021

Manpreet Bhangu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Gaurav Singla, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No.26 dated 24.03.2020, registered under Sections 323, 324, 506, 34 IPC (Sections 326 and 307 IPC added later) at Police Station Behram, District SBS Nagar.

The operative part of the order dated 19.11.2020, vide which interim anticipatory bail has been granted to the petitioner, is reproduced as under:-

“...Learned counsel for the petitioner submits that it is a case where the victim Pavittar Ram, as per the allegations in the FIR, was firstly taken to Civil Hospital, Banga and after giving first aid to him, he was referred to Civil Hospital, Phagwara, from where, he was taken to Civil Hospital, Jalandhar.

Learned counsel further submits that none of the doctors, attending the victim in all the three hospitals, had conducted the medico legal examination and only on the basis of an opinion given by Dr. Jaskaran Singh of Civil Hospital, Banga, Section 307 IPC has been added as he

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has given a report that victim has suffered injury on his head i.e. measuring 8 cm x 1.5 x 1 cm bone deep present vertically over right parietal region of scalp with profuse bleeding. It is also reported that victim was unconscious at that time and the doctor immediately referred him for CT-Head with Neurosurgical opinion and the injury was found to be grievous.

Learned counsel for the petitioner further submits that in the absence of an MLR, it will be a debatable issue how the prosecution will prove the guilt of the petitioner/accused.

Learned State counsel, on the basis of the affidavit of SSP, SBS Nagar, dated 16.11.2020 and earlier affidavit of DSP, Banga Sub Division, dated 14.10.2020, has submitted that Section 307 IPC was added on the basis of the aforesaid opinion given by the Medical Officer at Banga as well as on the basis of the CT scan report. However, this fact is not disputed that in the affidavit of both the aforesaid Officers, it is nowhere mentioned that any MLR was conducted regarding injury sustained by victim Pavittar Ram.

It has been held by Hon'ble Supreme Court as well as by this Court that as and when a medico legal case is reported in the hospital, the attending doctor will record an MLR, however, this mandatory provision seems to be not followed in this case.

Accordingly, the Director, General Health Services, Punjab is directed to file an affidavit after conducting an inquiry in this regard as to why the MLR was not conducted by either of the aforesaid three hospitals, where the victim was taken.

Let the affidavit be filed on or before the next date of hearing.

List again on 18.02.2021.

Considering the fact that petitioner is in judicial custody since 12.06.2020 and the challan stands presented, he is ordered to be released on interim bail till the next date of hearing only, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned....”

Reply by way of affidavit of the Director, Health and Family Welfare, Punjab, Chandigarh, is on record.

As per the affidavit, Civil Surgeon, SBS Nagar, the Civil

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Surgeon, Kapurthala and the Civil Surgeon, Jalandhar, were directed to conduct the fact finding enquiry regarding not conducting the MLR by 03 hospitals. It is stated that the Deputy Director, Health and Family Welfare, Punjab, Chandigarh, was directed to conduct and enquiry and submit a report. As per the enquiry submitted, non-issuance of the medico legal report, a disciplinary action is initiated against one of the medical officer. It is further stated that the MLR of the patient Pavittar Ram, will be prepared on the basis of the injuries noted in the concerned record.

Be whatsoever, the affidavit support the version of the petitioner that no MLR was conducted by either of the 03 hospitals, this petition is allowed and the interim bail granted to the petitioner vide order dated 19.11.2020 is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

(ARVIND SINGH SANGWAN)
JUDGE

23.08.2021
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No