

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

**CRM-M-26588-2019
Date of decision: 18.11.2021**

Luxmi Narayan and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Gautam Dutt, Advocate
for the petitioners.

Mr. Himmat Singh, DAG, Haryana.

Mr. Bipan Ghai, Sr. Advocate with
Mr. V. S. Virk, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioners in FIR No. 41 dated 10.02.2019, registered under Sections 148, 149, 323, 506 of the IPC (Sections 307, 325 of the IPC added later on) at Police Station City Sohna, Gurugram.

Learned counsel for the petitioner submits that the arrest of the petitioners were stayed on 19.07.2019 by passing the following order:

“Learned senior counsel submits that the petitioners, before addition of Section 307 IPC, were granted the concession of regular bail by the trial Court and thereafter, the police added Section 307 IPC after a report was obtained from the All India Institute of Medical Sciences on a petition filed by the complainant

praying for re-examination of the injured witnesses.

Learned senior counsel has referred to the medical board opinion pertaining to injured Bijender, wherein, a lacerated wound on left parietal region and reddish abrasion on left knee have been shown and in the opinion it is stated that “the head injury and fracture of left glenoid in this case are dangerous in nature and caused by kulhari/iron rod, a dangerous weapon. The age of wound is consistent with history.”

Learned senior counsel has further argued that injury No. 1, which is reported to be lacerated wound, cannot be caused by a *Kulhari* which is a sharp edged weapon and, therefore, opinion of the medical board is not specific as to the nature of injuries caused by both the weapons i.e. incised wound and lacerated wound.

Learned senior counsel further submitted that after addition of Section 307 IPC, the prosecution has not moved any application before the Illaqua Magistrate seeking permission to re-arrest the petitioner, in view of the judgment rendered by Hon'ble Supreme Court in ***Criminal Appeal No. 816-817 of 2019***, arising out of ***SLP (Crl.) Nos.10051-10052 of 2018***, titled as ***Pradeep Ram vs. the State of Jharkhand and another***.

Notice of motion.

Mr. B. S. Tewatia, Advocate and Mr. Himmat Singh, DAG, Haryana, who are present in Court, accept notice on behalf of the complainant and respondent-State, respectively.

List again on 14.08.2019.

In the meantime, the arrest of the petitioners shall remain stayed, subject to the conditions as provided under Section 438 (2) Cr.P.C.”

Learned counsel for the petitioners further submits that a period

of more than two years has passed since the stay of the petitioners was stayed and the petitioners have never misused the same during the said period.

The aforesaid fact is not disputed by learned State counsel as well as learned senior counsel for the complainant.

Accordingly, the present petition is allowed and the petitioners are granted the concession of anticipatory subject to the conditions envisaged under Section 438(2) Cr.P.C.

However, it will be open for the Investigating Officer to call upon the petitioners to join investigation, if so required, by issuing them a written notice in this regard.

18.11.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No