

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

Decided on: 17.09.2021

1. CRM-M No.36208 of 2021 (O&M)

Asha Rani

....Petitioners

Versus

State of Punjab

....Respondent

2. CRM-M No.38840 of 2021 (O&M)

Hirday Pal @ Hirdaya Bishnoi and others

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. A.P.S. Deol, Sr. Advocate
with Mr. H.S. Deol, Advocate for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Salil Dev Singh Bali, Advocate for the complainant.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in these petitions is for grant of anticipatory bail to the petitioners namely Asha Rani, Hirday Pal @ Hirdaya Bishnoi, Rana Singh and Vasu Jiyan, in FIR No.163 dated 05.08.2021 registered under Sections 307, 452, 324, 323, 148, 149, 120-B of the Indian Penal Code, 1860 (in short 'IPC') and 25/27 of the Arms Act at Police Station City-1 Abohar, District Fazilka.

Learned senior counsel for the petitioners has argued that as per the allegations in the FIR, registered at the instance of injured/complainant – Baljit Singh, it is stated that he is working as a

Manager in a co-operative society/bus company owned by one Om Parkash. Apart from this, he is also plying 02 mini buses by taking permit from the government. The owner of the said transport company is Vikas Bishnoi and his family members are having a dispute with one of their family member namely Hirdaya Bishnoi and on that account, Hirdaya Bishnoi is keeping a grudge against him because the complainant is managing the transport business of Om Parkash. Hirdaya Bishnoi has taken an expired permit with a bus and is plying the same on the road of the complainant due to personal grudge. For the last about 02 days, Hirdaya Bishnoi and his mother namely Asha Rani @ Baby and some other persons were not allowing the complainant to ply his mini buses. On 04.08.2021 at about 12:00 PM, when he was talking to Jasvir Singh resident of Dalmeer Khera and Jasvir Singh @ Jassa resident of Jherar Khera in his office, situated at Bus-stand, Abohar, in the meantime, Hirdaya Bishnoi got one of his bus parked at the counter of villager Shergarh. He was armed with a kappa, his manager Rana Singh was armed with dang, his maternal uncle's son namely Vasu Jiyan was armed with kripan and their partners in the bus company Davinder Singh and 3-4 other persons armed with dang, to whom he can recognize. All these persons started raising lalkara by naming the complainant and Abhimanyu son of Om Parkash that they should be taught a lesson for plying the buses, though, Abhimanyu was present at some distance. Hirdaya Bishnoi and his companions along with their respective weapons entered his office in an illegal manner and the complainant pleaded for mercy but Hirdaya Bishnoi gave a

kappa blow, which hit on the hand then, he gave another blow which hit on his wrist and his hand got cut badly. Vasu Jiyanani gave a kripan blow on the left side of his stomach. Rana Singh also gave a stick blow, which hit on his right elbow. In the meantime, Jasvir Singh and Jasvir Singh @ Jass, raised hue and cry and then, Davinder Singh gave a dang blow on Jasvir Singh, which hit on his forehead. When he was lying down, the persons accompanied them also gave dang blows. The complainant and Jasvir Singh raised voice to save them and again, the accused persons hit them on the left arm and shoulder of Jasvir Singh. Abhimanyu and Vikas Bishnoi ran towards the office to save themselves and one Balbir Kumar also witnessed the same and came forward to save the complainant on seeing, Abhimanyu and Vikas Bishnoi. Hirdaya Bishnoi and Vasu Jiyanani thereafter, took out their pistols and raised lalkara that they will teach a lesson and in the meantime, Vikas Bishnoi and Abhimanyu fled away to save their life. Thereafter, the accused also ran away in their car. The complainant and Jasvir Singh and Jasvir Singh @ Jassa, was admittedly in the hospital.

Learned senior counsel for the petitioners has further submitted that in fact, on account of a family dispute, the present FIR has been registered. It is also submitted that there is no allegation against the petitioner – Asha Rani, who is a widow lady aged about 53 years and is real aunt/Chachi of Hirdaya Bishnoi and she has been falsely implicated in the case.

Learned senior counsel for the petitioners has further argued that the allegation against Asha Rani is only to the extent that 02

days ago, she has threatened the complainant side. Learned senior counsel for the petitioners has referred to the MLR of Baljit Singh, wherein following injuries are reported:-

“1. Incised wound of approximately 6x3 cm on left hand near wrist joint extending from thumb. Restriction of thumb and index finger movement. Fresh bleeding present. Advice X-ray wrist joint and ortho opinion. Plastic surgeon opinion.

2. Superficial incised wound of 2 cm on right side of abdomen. In right umbilical region.

3. Superficial incised wound of 1.5 cm on right elbow joint and swelling over right elbow joint. Advice x-ray of elbow joint and ortho opinion.”

Learned senior counsel for the petitioners has also submitted that later on, Baljit Singh was taken to a private hospital in Amritsar, where the following course of action was taken in the hospital:-

“Course in hospital:

Patient was admitted in the hospital with the above mentioned complaints and was diagnosed with assault injury left hand dorsem, right elbow & abdominal wall. All the necessary investigations were done. After physician and anaesthetist opinion the patient was shifted to operation theatre and underwent surgery as mentioned above. Post OP patient was shifted to recovery and kept under observation. Then the patient was shifted to ward. Patient was treated with antibiotics, anagesics, antacids and other supportive treatment. Now the patient is stable and hence discharged to home in satisfactory condition.”

Learned senior counsel for the petitioners has further submitted that as per the medical opinion, no fracture was seen as per the MLR of Baljit Singh and there was a cut of the nerve and therefore, it will not be a case falling under Section 326 IPC.

Learned senior counsel for the petitioners has also referred to a judgment “*Avinash Shetty vs State of Karnataka and another*”, 2004(13) SCC 375, wherein the Hon’ble Supreme Court has observed that as per the statement of the 02 doctors examined during the course of the trial, it was found to be an incised wound over the left hand and nerve of the middle/index finger and 4th finger was cut, it will not be a grievous injury as the doctor in the cross-examination has stated so.

Counsel for the State, assisted by counsel for the complainant has, however, opposed the prayer for bail of the petitioners.

Counsel for the State has submitted that it will be a case falling under Section 320 Part A IPC. It is further submitted that at the time when the patient was admitted in the hospital, his left hand was partly amputated and could be saved only because of the timely medical aid given by the doctors as even noticed in the case history given by the private hospital. It is also submitted that the second victim Jasvir Singh has also suffered 03 injuries, which are reproduced as under:-

- “1. *Lacerated wound of 3x0.5 cm on fronto parietal region of scalp right side. Fresh blood present.*
2. *Lacerated wound of 1.5x0.5 cm below left elbow on forearm. Advice X-ray elbow joint.*
3. *Lacerated wound of 1x0.5 cm on left elbow region.”*

Lastly, it is argued that Jasvir Singh has suffered a fracture on his left elbow region and therefore, it will be a case falling under Section 326 IPC.

Counsel for the complainant has additionally argued that

Asha Rani is the originator of the conspiracy who along with other accused has stopped the plying of the buses of the complainant, 02 days prior to the incident and there are 02 more FIRs registered against her of similar nature in Fazilka and Rajasthan.

Counsel for the complainant has further submitted that both the injured Baljit Singh and Jasvir Singh has suffered multiple injuries at the hands of the accused persons, which was caused with sharp edged weapon and with a clear motive of stopping him from plying his buses as they have a rivalry with the owner of the transport company where the complainant was working as a Manager.

After hearing the counsel for the parties, I find that there is no dispute with regard to the judgment of the Hon'ble Supreme Court in *Avinash Shetty's case (supra)*, however the same is distinguishable as in the said case, the observation of the Hon'ble Supreme Court came only after appreciating the statement of 02 doctors, who appeared on oath before the Court during the trial and during cross-examination they had made certain observations on the basis of which, the Hon'ble Supreme Court had observed that Section 326 IPC is not made out. Even otherwise that was a case where the accused were convicted and during the pendency of their SLP, before the Hon'ble Supreme Court, some compromise was effected and while compounding the offence, the Hon'ble Supreme Court observed that it is a case falling under Section 324 IPC.

In the instant case, on the face of it, the medical evidence support the ocular version of the complainant and therefore, at this

stage, it is pre-mature to observe that Section 326 IPC is not made out. Thereafter, I find no merit in the petition i.e. *CRM-M No.38840 of 2021* and the same is accordingly, *dismissed*.

Though, CRM-M No.36208 of 2021, filed by the petitioner – Asha Rani, was also dismissed while hearing the proceedings, however, while dictating the judgment and on careful perusal of the FIR, I find that she was not present at the spot and the allegations against her are only to the extent that 02 days prior to the incident, she had instigated the accused persons to prevent the complainant from plying his buses on the route. Considering the fact that the petitioner is a lady aged about 53 years and was not present at the spot as per admitted case of the prosecution itself, I deem it appropriate to grant the concession of anticipatory bail to the petitioner – Asha Rani.

Accordingly, the petition i.e. *CRM-M No.36208 of 2021*, is *allowed* and the petitioner – Asha Rani, is directed to appear before the Investigating Officer within a period of 10 days from today and she will be released on interim bail, subject to the conditions envisaged under Section 438(2) Cr.P.C.

Disposed of.

A photocopy of this order be placed on the file of other connected case.

(ARVIND SINGH SANGWAN)
JUDGE

17.09.2021

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Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No