

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

CRM-M-37717-2020 (O&M)

Date of Decision: 09.04.2021

Sunil Kumar & another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Jamshed Ahmad, Advocate, for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana,
assisted by ASI Shiv Prakash.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

Mr. Charanjit Singh Bakshi, APP for UT, Chandigarh.

Mr. Mukesh Yadav, Advocate for the complainant.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioners have approached this Court seeking grant of anticipatory bail in respect of a case registered against them vide FIR No.137 dated 17.04.2020 at Police Station Kanina, District Mohindergarh, under Sections 323/324/506 IPC read with 34 IPC (offence under Section 326 IPC has been added later on).
2. The FIR was lodged at the instance of Rajeev, wherein it is alleged that on 16.04.2020, when he was going from fields to his house and was passing in front of the house of Manoj, then he was caused injuries by Manoj, his younger brother Sunil and Om Parkash. It is *inter alia* alleged that Sunil gave a blow with an axe on the head of

Sandeep, who was accompanying the complainant and Om Parkash gave a blow with bat on the head of Sandeep. Manoj is also alleged to have given a blow with *danda* on the right leg of Sandeep. Sunil is stated to have given a blow with axe on the head of the complainant as well.

3. Initially, the FIR was lodged for offences under Section 323/324/506 IPC read with 34 IPC, wherein the accused were released on bail on 18.04.2020, but subsequently upon receipt of medical opinion as regards the head injury sustained by Sandeep, offence under Section 326 IPC was added leading to filing of the instant petition seeking grant of anticipatory bail.
4. Vide order dated 16.12.2020, while petitioner No.2 Om Parkash, aged about 72 years, was granted interim bail, but no such direction was issued in respect of petitioner No.1 Sunil Kumar.
5. Learned counsel for the petitioners has submitted that the accused have falsely been implicated in the present case and that it is in fact a case where the accused Om Parkash and also Sunil have both sustained injuries. It is submitted that while Om Parkash sustained as many as 4 injuries, accused Sunil sustained as many as 2 injuries. It has been submitted that it is apparent that the genesis of occurrence had been suppressed and that it would be debatable as to whether it is the petitioners, who are the aggressors or as to whether it is the complainant party which had caused the injuries in aggression. The learned counsel has further submitted that in any case since there is nothing on record to suggest that the petitioners after grant of the bail in April, 2020 have ever misused

the said concession, they deserve the concession of anticipatory bail even pursuant to addition of offence under Section 326 IPC.

6. Opposing the petition, the learned State counsel assisted by the counsel for the complainant has submitted that it is a case where the petitioners in connivance with the authorities concerned had been able to delay the receipt of medical opinion regarding the nature of injuries and that in these circumstances, the petitioners who had caused a grievous injury on the head of the injured do not deserve the concession of bail.
7. I have considered the rival submissions addressed before this Court.
8. Having regard to the fact that it is a case where some injuries have also been sustained by the accused, it will certainly be debatable as to which of the party is aggressor. In any case, since there is nothing on record to suggest that the petitioners after grant of bail in April, 2020 had ever misused the said concession, the petition is accepted. Consequently, while ordering that petitioner No.1, in the event of arrest, be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer, the interim directions issued by this Court vide order dated 16.12.2020 qua petitioner No.2 are made absolute. However, both the petitioners shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

9. A Coordinate Bench before whom the instant petition was listed, while noticing that there was unnecessary delay in obtaining medical opinion regarding the nature of the injuries, had directed the Director General Health Services, Punjab; Haryana and UT Chandigarh to consider desirability of issuing appropriate instructions for furnishing requisite medical opinion/reports expeditiously in such matters.
10. Separate replies on behalf of all the three State Governments have been filed. A perusal thereof shows that the respective Governments have issued necessary directions in the matter of furnishing medical opinion/reports as regards the nature of the injuries. The State of Punjab in its reply dated 09.02.2021 has placed on record a copy of instructions dated 01.02.2021 (Annexure R-1), wherein directions have been issued to the concerned Investigating Officers and the Station House Officers to ensure that wherever any report is to be obtained from Medical Authorities, Forensic Science Laboratory(ies) or Chemical Examiner, the same shall be collected/obtained within a reasonable time, which may be taken to be one week.
11. Similarly, the State of Haryana in its reply dated 24.03.2021 has informed that requisite directions have been issued vide instructions dated 19.03.2021 (Annexure R-1), the operative portion of which reads as follows:
- “1. No handwritten MLR/PMR to be issued.
 2. Preparation and submission of MLR/PMR by Doctors on the MedLeaPR Portal immediately, but not later than 24 hours in any case.

3. Reporting of X-ray(s) and other investigation(s) such as, CT Head, USG etc., if done, shall be done within 48 hours of doing such investigation(s). Accordingly, the same may be collected by police personnel after 48 hours.
 4. The final opinion shall be provided within 72 hours of discharge/death, as the case may be. However, in the cases, where any sample has been sent for chemical/histopathology/etc. examination; the final opinion shall be provided within 72 hours of receipt of reports of such samples.”
12. Even in the reply filed on behalf of the UT Chandigarh by way of affidavit of DSP Rajeev Kumar, it has been informed that necessary instructions have been issued on 29.06.2020 (Annexure R-4/1) and also instruction dated 01.02.2021 (Annexure R-4/2).
13. Keeping in view the aforesaid position, wherein all the 3 Governments have issued necessary directions in the matter so as to ensure that requisite medical opinion/reports are duly received/collected by the Investigating Officer/Investigating Agency, no further direction is required to be issued in the matter. The respective Governments are, however, directed to ensure that the instructions are duly complied with.

09.04.2021
Vimal

(GURVINDER SINGH GILL)
JUDGE

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