

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

(103)

CRM-M-44341-2021.
Date of Decision:-29.10.2021.

Jaswant Negi

.....Petitioner

Versus

State of U.T. and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Inderjit Kaushal, Advocate for the petitioner.

Mr. Charanjit Singh, A.P.P., U.T., Chandigarh.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner for the offence under Section 326 IPC, which has been added on 05.03.2020 in the FIR No.186 dated 13.05.2018, which was initially registered under Sections 323, 325, 341 and 506 IPC, at Police Station South, Sector-34, Chandigarh.

Learned counsel for the petitioner has submitted that in the present case, FIR was registered on 04.08.2018 under Sections 323, 325, 341 and 506 of IPC. The petitioner was granted bail and thereafter, the challan was presented. Three witnesses including the eye-witness Shubham were examined in the case and all the three witnesses did not support the case of the prosecution. It is submitted that the petitioner was appearing in the trial Court regularly and, thereafter, an application was made on

CRM-M-44341-2021

15.10.2019 to add the offence under Sections 326 and 307 of IPC in the FIR. The trial Court, vide order dated 05.03.2020, on the basis of the same allegations as in the FIR and in the challan, had added offence under Section 326 of IPC by stating that the injury had been given by *kada*. Offence under Section 307 of IPC was, however, not added. Learned counsel for the petitioner has further submitted that the petitioner had earlier been granted bail after considering the same allegations and on the basis of the same medical report, the offence under Section 326 of IPC has been added. It is submitted that on account of adding of the said offence, the petitioner is apprehending that he will be taken into custody, although, he has been appearing regularly in the trial and would further keep on appearing before the trial Court. It is submitted that the challan has already been presented and no purpose would be served by keeping the petitioner in custody.

Learned counsel for U.T., Chandigarh, on instructions from ASI Devinder Kaur, has opposed the application for bail and he is fully prepared to assist the Court in the matter, but however, could not dispute the factual averments made by the petitioner.

Keeping in view the above facts and circumstances, *moreso*, the fact that initially the FIR was registered under Sections 323, 325 and 341 and 506 of IPC and the challan was also under the said Sections and the petitioner was also granted bail and three witnesses of the prosecution have been examined including the eye-witness Shubham, who have not supported the case of the prosecution and the offence under Section 326 of IPC has been added on the basis of same allegations, as contained in the

CRM-M-44341-2021

FIR/challan, thus, the present petition for anticipatory bail deserves to be allowed.

In view of what has been observed above, the present petition is allowed and the petitioner is granted the concession of anticipatory bail subject to the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

October 29, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No