

In the High Court for the States of Punjab and Haryana at
Chandigarh

CRM-M-22061-2022 (O&M)

Date of Decision: September 28, 2022

Rahul

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Farukh Abdullah, Advocate,
for the petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

Vivek Puri, J.

CRM-36858-2022

This is an application for amendment of the head note and prayer clause in the main petition for adding the offence under Section 326 of the Indian Penal Code (for short 'IPC').

It has been stated that Section 326 IPC has been added subsequently.

The prayer is allowed. Amended head note and prayer clause is taken on record.

Applicant stands disposed of.

CRM-M-22061-2022 (O&M)

The petitioner is seeking anticipatory bail in the case bearing FIR No. 165, dated 14.11.2021, under Sections

148, 149, 323, 307, 341, 506, 509 IPC (Section 326 IPC added later on), registered at Police Station Utawar, District Palwal.

Briefly, the FIR has been registered on the basis of the application submitted by Fakruddin alleging that the marriage of his daughter Arshina was solemnized with the petitioner in the year 2018. The petitioner along with his relatives had been demanding a sum of Rs. 2 lakhs and had been harassing his daughter on that score. On 12/13.11.2021 at about 1.00 AM, the complainant received a telephonic message from Samshu, the father of the petitioner, about the indisposition of the daughter of the complainant. The complainant sent his brother-in-law, namely, Mustaq and son-in-law of his brother, namely, Majid to village Raniyala Khurd and they informed that the deceased was lying on a cot. The complainant along with others reached Village Raniyala Khurd and found that the death of his daughter has occurred in suspicious circumstances. The accused could not give any satisfactory reply when they were asked about the cause of death. The dead body was buried. The petitioner along with Sahid, Siraz, Aadil, Jakir, Usman, Hakam and Sakil along with 8-10 unknown persons started hurling abuses to the complainant and others. Rahul, petitioner, inflicted lathi blow upon Salim. Sahid inflicted farsa blow on the head of

Majid. The accused persons had assaulted the complainant party. Majid and Salim were taken to hospital at Hathin from where Majid on account of serious condition was shifted to Safdarjung Hospital.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner contends that the marriage of Arshina, daughter of the complainant, was solemnized with the petitioner in the year 2018. Initially, the offence under Section 304-B IPC was added, but the same has been subsequently deleted. The injury under Section 326 IPC has not been attributed to the petitioner. Furthermore, the co-accused, namely, Aadil and Hakamudin have been granted bail.

On the contrary, learned State counsel has opposed the bail application on the score that the post mortem examination has not been conducted as the parental family members of the deceased never wanted to exhume the dead body. The proceedings under Section 174 of the Code of Criminal Procedure have not been conducted in view of the order passed by the learned Sub Divisional Magistrate, Hathin on the application submitted by the complainant. The injury on the person of Majid has been declared to be grievous in nature and on the opinion of the District Attorney, the offence under Section 307 IPC has

been added. The petitioner had led from the front and had played an active role in inflicting injuries upon the complainant party which consisted of his father-in-law and other relatives and friends.

It is significant to note that the death of the wife of the petitioner had taken place in her matrimonial house during the intervening night of 12/13.11.2021 under suspicious circumstances. The petitioner and his relatives were confronted by the parental family members of the deceased to verify with regard to the cause of death. The petitioner along with his co-accused became violent and had inflicted injuries upon the complainant party. The petitioner had led from the front and the accused persons were in good strength. At the first instance, the petitioner had inflicted lathi blow on the person of Salim and thereafter, his co-accused inflicted farsa blow on the head of Masid. The offence under Section 304-B IPC has been deleted as her parental family never intended to exhume the dead body. However, soon after the death of the daughter of the complainant, the petitioner along with his co-accused had assaulted the complainant party which consisted of his father-in-law and his relatives. Although, the injury under Section 326 has not been attributed to the petitioner, but he has played a significant and active role in the commission of crime. The case of the petitioner cannot be termed to be at

par with the co-accused, namely Aadil and Hakamudin, who have granted bail, particularly because the entire occurrence took place on account death of the wife of the petitioner under suspicious circumstances. The matter requires thorough probe and investigation and no exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

Present petition is dismissed, accordingly.

September 28, 2022
vkd

(Vivek Puri)
Judge

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