

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

(1) **CRM-M-32261-2022(O&M)**

Lehari Singh ...Petitioner

Versus

State of Punjab ...Respondent

(2) **CRM-M-33027-2022 (O&M)**

Parven Singh @ Parveen Kumar ...Petitioner

Versus

State of Punjab ...Respondent

Date of Decision:- 31.8.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Ms. Kanika Ahuja, Advocate for the petitioner
in CRM-M-32261-2022.

Mr. Aminder Singh, Advocate for the petitioner
in CRM-M-33027-2022 .

Ms. Swati Batra, DAG, Punjab and
Mr. Luvinder Sofat, DAG, Punjab,
assisted by ASI Virdavinder Singh.

Mr. P.S. Ahluwalia, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. This order shall dispose off the above mentioned two petitions filed on behalf of Lehari Singh and Parven Singh @ Parveen Kumar, which is a second attempt on part of the petitioners to seek anticipatory bail in a case

registered vide FIR No. 3 dated 9.1.2018 under Sections 307, 324, 325, 326, 506/34 IPC at Police Station Khanauri, District Sangrur.

2. The petitions are being entertained as the learned counsel submitted that in the present case after dismissal of the petitions earlier on 16.1.2019, the police had found the petitioners as innocent and had presented a cancellation report which somehow was not accepted and cognizance had been taken with the aid of Section 190 Cr.P.C. and the petitioners have been summoned to face trial.
3. The FIR was lodged at the instance of Raj Kumar wherein it has been alleged that on the day of occurrence he was attacked by petitioners Lehari Singh and Parveen Singh along with two unknown persons. Petitioner Parveen Singh is alleged to be armed with '*khapra*' and is stated to have caused injuries on head as a result of which his right eye-ball came out. Petitioner Lehari Singh and other unknown persons are alleged to be carrying swords and are stated to have caused injuries on complainant's head.
4. It has been submitted by learned counsel representing the petitioners that the FIR has been lodged by concocting a false story and that the very fact that the same came to be lodged after about four months of the occurrence in hand, goes a long way to show that the FIR is a result of fabrications. It has been submitted that police, upon comprehensive investigation, had found the petitioners to be innocent and although cognizance has been taken by the learned Magistrate but there is no evidence to substantiate the allegations and the trial would be an exercise in futility. It has also been submitted that

it is mainly on account of political rivalry in the village, particularly since the petitioner – Lehari Singh while being a Sarpanch had got panchayat land vacated from one Rajpal Singh and Satpal Singh who were close to the complainant and who themselves are involved in FIR for offence under Sections 353 and 186 IPC at the instance of petitioner Lehari Singh.

5. It has further been submitted on behalf of the petitioners that the falsity of the case would be established from the fact that when the complainant was initially taken to Maharaja Agrasen Medical College & Hospital, Agroha (Hisar) and Sapra Multispecialty Hospital, Hisar, the brother of the injured had disclosed that the injuries had been sustained in a vehicular accident.
6. The learned State counsel, assisted by counsel for the complainant, on the other hand opposed the petitions and have submitted that it is a case where injured had been inflicted injuries brutally with sharp edged weapons and the nature of injuries are such which could not possibly have been sustained in a vehicular accident, as is sought to be projected by the petitioners. The learned counsel for the complainant has furnished an explanation as regards the version of accident putforth by brother of injured before the hospitals i.e Maharaja Agrasen Medical College & Hospital, Agroha (Hisar) and Sapra Multispecialty Hospital, Hisar. He has submitted that the case apparently being serious injury case, the hospital authorities did not wish to create problem for themselves by providing treatment as in “police” case they would be required to depose before the Court at a later stage and that the brother of complainant, in order to ensure that medical treatment is provided to the injured, had no option but to state before the hospital authorities that the injuries had been sustained in a vehicular accident.

7. I have considered rival submissions addressed before this Court.
8. In the present case, the injured had initially been taken to private hospitals i.e. Maharaja Agrasen Medical College & Hospital, Agroha (Hisar) and Sapra Multispecialty Hospital, Hisar where the brother of the complainant is stated to have expressed that the injuries sustained by the injured Raj Kumar had been sustained in a vehicular accident but having regard to the nature of injuries, as is evident from the medical record and also a photograph which has been furnished by learned State counsel today, the same, by no stretch of imagination, can be said to have been sustained in a vehicular accident. The forehead and head of the injured has virtually been sliced like as one would slice a loaf of bread inasmuch as there are a large number of parallel long incised deep cuts in the head. The explanation furnished by the learned counsel for constraining the brother of the complainant to state before the private hospitals that the injuries had been sustained in a vehicular accident instead of the same having been inflicted by the accused, can well be accepted.
9. The contention put forth on behalf of the petitioners regarding there being unexplained delay in lodging the FIR which according to him would cast a serious doubt on the veracity of the allegations also needs to be examined in view of all the facts and circumstances. It cannot possibly be disputed that the injured was brutally attacked with sharp edged weapons and was extensively injured. In the first instance, the family, in order to ensure that the injured is provided treatment had to state falsely before the hospital authorities that the injuries have been sustained in a vehicular accident and on account of which they certainly could not have immediately taken a

volte-face so as to get an FIR lodged at that particular moment. At that point of time, the prime concern of the family was to save the life of the injured who had been brutally attacked. The injured himself has furnished a fairly reasonable explanation in the FIR as regards the delay, which is as under :-

“..... Now my right eye is completely damaged and I am blind from my right eye and due to being attacked by the accused with sharp edged weapons on my head, due to deep injuries in my head I had gone into coma and was on bed rest in my house only, due to which reason I was unable to undertake any legal proceedings against the aforesaid accused and since my family was being continuously threatened by the aforesaid accused and due to aforesaid attack by the accused, my family had not got registered any case out of fear. Even today, I and my family have danger of our lives and property from the aforesaid accused. The aforesaid accused can cause loss of lives or property to me and my family at any time. Therefore a case may be registered against aforesaid accused while undertaking proceedings against them and I may be given justice.....”

10. Though, the delay in lodging the FIR does put the Court to caution as regards the authenticity of the version got recorded by the complainant but it is not an absolute rule that in every case of delay in lodging the FIR, the version of the complainant has to be discarded. Since in the present case, the delay stands sufficiently explained, the accused cannot derive any benefit from such delay.
11. As regards, the contention of the petitioners regarding they having been declared innocent in an inquiry and that a cancellation report had been filed,

this Court finds that there are hardly any grounds to justify cancellation of FIR. The detailed medical record of the complainant shows that the complainant had received serious injuries on his head which injured his brain and the vision of his right eye was permanently impaired. The complainant had to undergo a surgery as there was fracture on his head. The doctor has clearly mentioned that the injuries were 'dangerous to life' and has also mentioned that sharp edged weapon was used for inflicting the injuries to the complainant. The fact that despite the inquiry, the Illaqa Magistrate has found sufficient grounds to proceed against the petitioners suggests the hollowness of claims of innocence of petitioners. No such fact could be pointed out from the cancellation report (Annexure P-7) annexed with Lehari Singh's petition [CRM-M-3226-2022], which could be said to be sufficient to negate the case of the prosecution.

12. Having regard to the facts and circumstances of the case and the nature of allegations which are found to be *prima facie* substantiated from medical evidence, this Court does not find any special case for grant of anticipatory bail.
13. Both the petitions are sans merit and are hereby dismissed.
14. A photocopy of this order be placed on the file of connected case.
15. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

31.8.2022

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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No