

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

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CRM-M-39486-2022

Date of Decision : **September 01, 2022**

JAHID

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Kunal Dawar, Advocate for
Mr. Rohit Rana, Advocate
for the petitioner.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for issuance of directions to respondents No.2 and 3 to add Section 326 IPC in FIR No. 370 (Annexure P-1) dated 13.12.2021 under Sections 148, 149, 323, 452 IPC registered at Police Station Sadar, Palwal.

The learned counsel for the petitioner has submitted that the petitioner is a person who was injured and he lost his right eye and the entire vision is lost. He submitted that during the course of investigation and after obtaining the opinion from the District Attorney, Section 326 IPC was added. However, when anticipatory bail application was filed before the learned Additional Sessions Judge, Palwal by the accused, namely, Napish it had come in the order that on the face of it it appears that false allegations have been levelled and there is no allegation in the statement of the petitioner that the injury on his right eye was inflicted by a sharp or dangerous weapon. Learned counsel submitted that thereafter

by relying upon the observations made by learned Additional Sessions Judge, in an application for anticipatory bail, the police has now deleted Section 326 IPC.

He submitted that firstly, any observation made in an application for considering the grant of bail is only for the purpose of deciding the bail application and it should never be deemed to be on the merits of the case and, therefore, the police could not have mechanically relied upon the observations made by learned Additional Sessions Judge while considering and deciding the bail application and secondly, in case the provisions of Section 326 IPC were required to be considered for deleting then the same could have been done only by way of its own merits in the wisdom of the concerned IO and not otherwise. He further submitted that adoption of a mechanical approach by the police authorities is bad in law.

The learned counsel further submitted that he will be satisfied at this stage in case a direction is issued to the SP of the District to consider the aforesaid aspect and to take an appropriate action in accordance with law.

Notice of motion.

Mr. Ranvir Singh Arya, Addl. Advocate General, Haryana accepts notice on behalf of the State of Haryana and states that he has no objection in case the SP, Palwal considers the aforesaid submissions made by the learned counsel for the petitioner and direct the IO to consider the issue with regard to addition or deletion of Section 326 IPC strictly in accordance with law.

In view of the aforesaid position and the prayer of the learned counsel for the petitioner which is confined at this stage only to the extent of issuance of directions to the SP for considering the submissions made by him, it is directed that the SP, Palwal shall consider the aforesaid aspect with regard to deletion of Section 326 IPC purely on the basis of the observation made by learned Additional Sessions Judge, Palwal while considering the application for anticipatory bail strictly in accordance with law and take further appropriate action if so required and in accordance with law.

Disposed of.

September 01, 2022

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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No