

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-54816-2021

Date of decision : 04.01.2022

Amit

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Ashish Sanghi, Advocate for
Ms.Sunita Nain, Advocate
for the petitioner.

Mr.Parveen Aggarwal, DAG, Haryana.

Ms.Neha Rana, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.266 dated 22.07.2021 registered under Sections 323, 324, 341, 506, 34 IPC (Sections 325 and 326 IPC added later on) at Police Station Sadar Narwana, District Jind, Haryana.

Learned counsel for the petitioner has submitted that in the present case even as per the allegations in the FIR, two injuries, which have been caused to the complainant, have been attributed to co-accused Satyawan and Ram Partap. It is further argued that the petitioner was alleged to have been armed with *danda* and no specific injury has been attributed to the petitioner. It is further submitted that the petitioner has already joined investigation and the alleged *danda* has been recovered from

him and thus, nothing is to be recovered from the petitioner. It is argued that the incident allegedly took place on 21.07.2021 but the FIR was registered on 22.07.2021, initially under Sections 323, 324, 341, 506, 34 IPC and it was only on 10.08.2021, that injury no.2 to the complainant was declared as grievous in nature and Section 325 IPC was added. It is further argued that another opinion of doctor was taken on 11.11.2021, wherein the doctor had declared “injury no.1 as grievous in nature seems” and on that basis, Section 326 IPC was added. It is further submitted that as per instructions of State of Haryana dated 19.03.2021, the final opinion should be provided within 72 hours of the discharge. It is also argued that the complainant has been discharged within a period of 5 days from the date of said incident. It is further submitted that the petitioner is not involved in any other case.

On asking of the Court, Mr.Parveen Aggarwal, DAG, Haryana, appears and accepts notice on behalf of the State of Haryana. Ms.Neha Rana, Advocate, appears for the complainant and have submitted that they are fully prepare to argue the matter and assist this Court. Learned State counsel as well as counsel for the complainant have opposed the petition for anticipatory bail and submitted that in the present case although no injury has been attributed to the petitioner upon the complainant but a perusal of the FIR would show that the petitioner along with other co-accused had given beatings to the mother and the uncle Balwan. It is further argued that the mother of the complainant had also suffered one injury, however the fact that *danda* from the petitioner has already been recovered and also the fact that grievous injury has not been attributed to the petitioner and the petitioner is not involved in any other case, have not been disputed.

Learned counsel for the petitioner has further submitted that

even the injury to the mother of the complainant has not been specifically attributed to the petitioner and at any rate, the said alleged injury is also simple in nature.

Keeping in view the above said facts and circumstances more so, the fact that it is co-accused of the petitioner who have been attributed grievous injury inflicted upon the complainant and the petitioner has not been attributed any specific injury and even the injury to the mother of the complainant is simple in nature and the *danda*, which the petitioner was allegedly carrying, has already been recovered from the petitioner and the petitioner is not involved in any other case and also, there is a substantial delay in declaring the injuries as grievous, the present petition for anticipatory bail is allowed and in the event of arrest, the petitioner shall be released on bail subject to furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. The petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) of Cr.P.C.

It is made clear, in case, the petitioner fails to join the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

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 petition.

(VIKAS BAHL)
JUDGE

January 04, 2022

Davinder Kumar