

202(2) IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-3964-2024 (O&M)
Date of Decision: 16.02.2024

Baldev Singh and anotherPetitioners

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sushil Kumar Verma, Advocate
for the petitioners.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Sandeep Siwach, Advocate for
Mr. Kuldeep Singh Siwach, Advocate,
for the complainant.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of Code of Criminal Procedure, 1973 seeking pre-arrest bail in FIR No.509 dated 24.09.2023 registered under sections 147, 323, 324, 379, 427 and 148 read with Section 149 IPC (Sections 326 and 380 IPC were added and Sections 147, 323, 324, 326, 379 & 148 read with Section 149 IPC were deleted later on), at Police Station Sadar Fatehabad, District Fatehabad.

2. Allegations in brief are that on 23.09.2023 at about 10.30 pm, petitioners along with co-accused formed an unlawful assembly and in prosecution of their common object, broke open the lock of kiosk of the complainant and took away all the tools & machines used for repairing punctured tyre. While leaving the spot, they dismantled the kiosk and later on, caused injuries to the complainant with sword, stick and *dandas*.

3. Learned counsel contends that petitioners have been falsely implicated in the present case. The injuries alleged by the complainant have

been caused with friendly hand. Also contends that in order to grab money from petitioners, instant FIR has been lodged. In fact, the complainant has encroached upon the land of petitioners and in order to save their illegal possession, false case has been planted against them.

Further contends that no injury has been attributed to petitioners.

Also contends that initially, the doctor had opined three injuries vide MLR dated 24.09.2023 wherein injury No.3 was shown to be sharp. Thereafter, another MLR was prepared showing one more injury to the complainant so as to attract Section 326 IPC in the case.

4. *Per contra*, while opposing the prayer of petitioner, learned State counsel submitted that complainant was running business of repairing punctured tyre in a kiosk situated on the roadside. Petitioners had uprooted the kiosk and took away the entire material lying therein and subsequently caused injuries to the complainant.

5. Heard learned counsel for the parties and perused the paper-book.

6. It transpires that immediately after the occurrence, complainant/injured Tirlok Chand was taken to Civil Hospital, Fatehabad. Upon giving first aid, he was referred to Maharaja Agrasen Medical College, Agroha, where complainant remained admitted for five days from 24.09.2023 to 29.09.2023. After the initial MLR dated 24.09.2023, a medical board of Doctors was constituted in MAMC, Agroha and the opinion of the board is as under:-

“A police request moved by I.O. Rakesh Kumar HC, Sadar Fatehabad for opinion by board regarding MLR No. BS/292/MLR/FTB/2022 in which total injuries three in number was mentioned in MLR prepared at Civil Hospital, Fatehabad and then patient refer to MAMC, Agroha for ortho opinion and further management. Patient was admitted in MAMC, Agroha on dated

24.09.2023 and discharge on dated 29.09.2023. On going through all record, BHT and X report from Agroha and opinion of doctor who prepared MLR, there is traumatic amputation of left ring finger at the level of distal phalanx and no other fresh bony injury seen and in injury No.1 there is lacerated wound present.

*Therefore, we the board Members are of the opinion that injury No.1 and 2 is simple and blunt and **injury No.3 is sharp and Grievous in nature** and regarding possibility of these injury by himself is already given by the doctor who prepared MLR.”*

7. A bare perusal of the above extract reveals that complainant was brutally attacked and all the accused bulldozed his kiosk and have virtually finished the poor man by destroying his livelihood, which cannot be taken lightly.

8. As a result thereof, this Court is not inclined to grant pre-arrest bail to the petitioners; rather their custodial interrogation would be necessary to recover the weapon of offence as well as other material.

9. In view of the above, there is no option, except to dismiss the petition.

10. Ordered accordingly.

11. Needless to say that State of Haryana is at liberty to take necessary action against the doctor concerned who has given fictitious medical report.

12. The above observations be not construed as an expression of opinion on the merits of the case in any manner.

13. Pending application(s), if any, shall also stand disposed off.

16.02.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

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