

2024:PHHC:143120



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

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CRM M-47266 of 2024
Date of Decision: 23.09.2024

Bohla Nath		...Petitioner
	Versus	
State of Punjab		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Dheeraj Mahajan, Advocate
for the petitioner (through V.C.)

Mr. I.P.S. Sabharwal, DAG, Punjab.

Mr. Amandeep Singh Manaise, Advocate
for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 of the BNSS with a prayer to grant pre-arrest bail to him in case FIR No.39 dated 01.08.2024 registered under Sections 115(2), 118(2) and 3(5) of BNS, 2023 (old Sections 323, 326 and 34 IPC) at Police Station Behrampur, District Gurdaspur.
2. The FIR in the present case was registered on the statement made by Vijay Kumar and the same has been reproduced below:-

“Statement of Vijay Kumar son of Sh. Dharampal, resident of Village Ismailpur, aged about 40 years (Mobile No.9855662661). Stated that I am resident of aforementioned address and is an agriculturist. On 14.07.2024 at about 2.30 PM, I and my brother Surinder Pal were watering our field situated in Village Ismailpur. Then Bhola Nath, Jagdish Raj, Balwinder Kumar all sons of Satpal, resident of Village Ismailpur came there. Jagdish Raj was armed with kahi (spade), Bhola Nath and Balwinder Kumar were armed with daang. On reaching there, Bhola Nath raised lalkra to catch hold and eliminate them. They be taught lesson for filing cases against them and I will manage everything. After lalkara being raised by Bhola Nath, Jagdish Raj gave kahi (spade) blow on my head with an intention to kill me, which hit on left side of my head. Bhola Nath gave dasti daang blow which hit in between nose and forehead. Balwinder Kurnar gave dasti daang blow which hit on my right thumb. Blood starting oozing out of my head and I fell down on the ground. My brother Surinder Pal was 20 karna behind me and he witnessed the entire occurrence and raised raula “mar dita mar dita” and came running towards me to save me. In the meantime, aforesaid accused persons ran away from the spot with their respective weapons. My brother Surinder Pal got me admitted in civil hospital Gurdaspur where doctor issued MLR to me. Today after taking copy of MLR, I was coming to inform you alongwith one Sarwan Singh son of Sardar Singh, resident of Mirjanpur and you have met us. Legal action be taken. Respectables were trying to effect the compromise but it could not

*mature. Action be taken. Sd/- Vijay Kumar in English.
Attested Sham Lal, ASI, Police Station Behrampur.
Dated 01.08.2024”.*

2. Learned counsel for the petitioner contends that as per the allegations levelled by the complainant, the petitioner had allegedly dealt a blow with a dang on the nose of the complainant, whereas no such injury found mentioned in the MLR (Annexure P-8), which was conducted on the same day. Learned counsel further contends that in fact the complainant party was the aggressor and after entering the land of the complainant, they had caused multiple injuries to brother of the petitioner on 14.07.2024 and after the injuries, he was medico legally examined. He further contends that later on, a report was received from the Department of Radiology, in which, fracture of nasal bone was detected. Even, the X ray was conducted on 18.08.2024 and the report was manipulated. Learned counsel further contends that it is a case of version and cross-version and question of aggressor is yet to be determined by the trial Court and the petitioner deserves the concession of bail.

3. On the other hand, learned State counsel vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the MLR of Jagdish Raj was conducted at CHC Puran Shalla, Gurdaspur and injury No. 4 was found to be pain on the nose and Jagdish Raj was referred to some ENT Specialist for further opinion. As per the opinion (Annexure P-10) from the Head of the

Department of Radiology, Government Medical College, Amritsar
and the following report was prepared:-

“NCCT nose and PNS shows fracture of tip of the nasal bone on left side in the given NCCT film at time of examination.”

4. I have heard the rival submissions made by learned counsel for the parties and perused the record.

5. No doubt, there is initial delay of few days in the registration of the FIR and, as a matter of fact, Jagdish Raj was subjected to medico legal examination, immediately, after the occurrence and injury No. 4 was found on his nose and there was complain of pain in the nose. However, when the complainant was taken to a higher medical center, it was found that there was a fracture of nasal bone on the left side, which was caused by the petitioner. Thus, keeping in view the gravity of the allegations levelled against the present petitioner, no ground is made out to grant the concession of anticipatory bail to him and the petition is ordered to be dismissed.

23.09.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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