

(101)

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

**2024:PHHC:045150
CRM-M-59235-2023
Date of Decision : 03.04.2024**

Preeti

.....Petitioner

VERSUS

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Aditya Sanghi, Advocate,
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

Mr. Kunal Dawar, Advocate
for respondent no.2.

Mr. Shivam Sachdeva, Advocate for
Mr. Akash Yadav, Advocate,
for respondent no.3.

KULDEEP TIWARI. J.(Oral)

1. This Court vide order dated 08.01.2024 had extended the interim relief to the present petitioner and directed the petitioner to join investigation.

2. The petitioner, who was working as a contractual teacher in a private school, filed the instant petition for grant of pre-arrest bail in case FIR No.189 dated 21.10.2023, under sections 323, 34 IPC (Sections 326 and 188 IPC added subsequently), and under Section 75 of Juvenile Justice (Care and Protection of Children) Act, 2015, registered at P.S. Tigaon, District Faridabad. The present case is an outcome of an unfortunate incident wherein, the victim who was a 12 years old student, has suffered grievous injury on his right eye, which has been attributed to

the present petitioner. In the instant case, the allegation against the present petitioner is that she has caused injury in the right eye of a student, with an iron scale. This injury was subsequently declared as grievous in nature.

3. Learned counsel for the petitioner, who is praying for the grant of pre-arrest bail submits that the petitioner had no intent to cause injury to the victim, much less on such a vital part of the body i.e. eye, rather the same was inflicted upon the victim accidentally, as the petitioner was only punishing the victim for not completing the home work. Counsel further submits that even the contents of the FIR, do not establish any *mens rea* on the part of the petitioner, to cause any such injury to the victim. He further submits that in absence of any *mens rea* which is apparently absent from the allegations, the offences under which she is sought to be arrested, is not made out. It is further submitted that the petitioner herself was under shock after the incident took place, and father-in-law of the petitioner immediately deposited Rs.45,000/-, to facilitate the medical treatment of the victim.

4. At the time of issuance of notice of motion, the counsel for petitioner also offered Rs.5.00 lakh for the treatment of the victim-child.

5. During pendency of this petition, this Court, on the request made by learned counsel for petitioner, arrayed school management as one of the respondents. On 12.02.2024, during the hearing of the instant petition both learned counsel for the petitioner as well as respondent no.3-Society, made a statement that they are ready to compensate the victim-child, so that he may not be deprived from the required medical

treatment, and both the counsel sought an adjournment to have instruction from the quarter concerned.

6. Learned counsel for the petitioner offered to pay Rs.5.00 lakhs to the father of the victim-child as compensation. Whereas, respondent no.3-Society filed an affidavit sworn by Sh.Yatinder Kumar Maheshwari, who was duly authorised by the management. The relevant extract of the affidavit reads as under:-

"4. That the deponent undertakes to get the eyesight of the child restored to its full vision at its expense at a hospital of the choice of father of the victim-child.

5. The deponent is also ready to bear expenses for his transport expenditure incurred for the medical treatment and any OPD expenses, medications for 6 months after the full treatment is done.

7. It transpires from the record that learned counsel for the petitioner, has handed over a demand draft of Rs.5.00 lakhs to the father of the victim-child, in compliance of the directions issued by this Court vide order dated 08.01.2024.

8. On the other hand, learned State counsel on instructions imparted to him by police official concerned, has informed the Court that the petitioner has joined investigation and has fully cooperated, and she is not required for any custodial investigation.

9. Be that as it may, this Court has examined the entire case in totality and *prima facie* this Court is of the opinion that the injury suffered by the victim-child is a result of an accident, and the petitioner in order to show her *bona fide* has already paid total Rs.5.45 lakhs as on date, to the father of the victim-child. Apart from that, the school

management is also ready to extend any possible help for the treatment of the victim-child. Therefore, this Court without observing anything on the merits of the present case, disposes of the instant petition, with a direction to the school management to bear the costs to be incurred on the treatment for efforts to get the eyesight of the victim-child, restored to its full vision, at the hospital of the choice of the victim's father. The costs shall also include the transport expenditure, to be incurred by the father of the victim-child during the treatment and other miscellaneous expenses for next six months after completion of the treatment, like OPD, medicines, tests etc.

10. In view of the above, the interim directions as issued by this Court vide order dated 08.01.2024, are hereby made absolute, on the terms and conditions as envisaged under Section 438(2) of the Cr.P.C.

April 03, 2024
lucky/dharamvir

(KULDEEP TIWARI)
JUDGE

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