

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210 **Criminal Misc. M- No. 1421 of 2015 (O&M)**
Date of decision : 20.01.2015

Kirandeep Singh and anotherPetitioners

Versus

State of PunjabRespondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sarju Puri, Advocate
for the petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab

Mr. Kapil Sharma, Advocate
for the complainant.

LISA GILL, J.

The petitioners pray for anticipatory bail in FIR No. 104 dated 05.10.2014 registered under Sections 452, 323, 448, 511, 427, 148, 149, 380 IPC at Police Station Sadar Banga, District SBS Nagar.

As per the allegations in the FIR recorded on the statement of Gurmej Kaur, the petitioners had trespassed into the residential house in which they are living. The said house belongs to Didar Singh son of late Sucha Singh. Didar Singh has executed a power of attorney in favour of the petitioners as he is living in England. The complainant and her husband are looking after his house and other property. Kirandeep Singh is son of Kirtan Singh, who is real brother of Didar Singh. The said persons wish to take over the possession of Didar Singh's house in an illegal and forcible

manner. An effort was made for an amicable settlement but the same could not materialize and on 16.09.2014, the petitioners tried to take forcible possession of the house alongwith 20-25 persons. The complainant was alone in her house and Manjit Kaur Ex-Sarpanch had come to visit her. She witnessed the entire incident. Injuries were caused to the complainant, who is 65 years old and valuables belonging to her taken away.

Learned counsel for the petitioners submits that the house in question is admittedly an ancestral property, therefore, there is no question of trespassing thereon. His father is a co-owner of the property and has equal rights to enjoy the same. Reference is made to the plaint (Annexure P-1) i.e. the suit filed by Didar Singh against the petitioner – Kirandeep Singh to suggest that the complainant and her husband are not even residents of the said house. Further avers that there is no specific allegation in the FIR , which would constitute an offence under Section 380 IPC.

Learned counsel for the State submits that are specific injuries on the complainant - Gurmej Kaur as per the Medico Legal Report and the possession of the house in question with the complainant and her husband is confirmed by the investigating agency.

I have heard learned counsel for the parties and it emerges that there is nothing on record which would suggest that it is the petitioner's father Kirtan Singh or the petitioner - Kirandeep Singh, who is in possession of the residential house in question. The

pendency of the civil suit filed by Didar Singh against Kirandeep Singh prima facie points to possession of the complainant and her husband. Furthermore, the District and Sessions Judge, Shaheed Bhagat Singh Nagar in order dated 06.01.2015 has observed that their possession has not been challenged in express terms by the petitioners. Even at this stage, it is not the case of the petitioners that they are in possession of the demised terms. The ground sought to be urged is that the same being ancestral property, they have a right to enjoy the same in a husband like manner being co-owners.

Keeping in view the facts and circumstances but without expressing any opinion on the merits of the case, I do not deem it expedient to extend the concession of anticipatory bail to the petitioners.

Dismissed.

January 20, 2015
rts

(LISA GILL)
JUDGE