

CRM Nos. M-18237 and 16411 of 2015 1

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

**CRM No. M-18237 of 2015
Date of decision : 01.07.2015**

Kapil Dev and another

..... Petitioners

Versus

State of Punjab

..... Respondent

**CRM No. M-16411 of 2015
Date of decision : 01.07.2015**

Balbir Chand and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Ishan Gupta, Advocate
 for petitioners (in CRM-M-18237 of 2015).

 Mr. H.P.S.Ishar, Advocate
 for petitioners. (in CRM-M-16411 of 2015)

 Mr. Neeraj Yadav, AAG, Punjab.

 Mr, D.S.Malwai, Advocate
 for the complainant.

DARSHAN SINGH,J(Oral)

 This order shall dispose of both the petitions mentioned

above which have been arisen out of the same case for grant of

anticipatory bail by invoking the provisions of Section 438 Cr.P.C in case FIR No. 98 dated 03.09.2014, under Sections 308, 323, 325, 506, 120-B, 34 of Indian Penal Code (for short IPC), registered at Police Station Longowal, District Sangrur.

As per the prosecution allegations, complainant Rishav Dev had got registered FIR No. 22 dated 08.04.2012, under Sections 307, 148, 149 of IPC and Section 25/ 54/59 of Arms Act at Police Station Longowal, District Sangrur against accused Dalwinder Singh @ Babli. The said case was fixed for 01.09.2014 for recording the prosecution evidence. Dalwinder Singh @ Babli and others threatened him not to depose otherwise he will be killed. When the complainant after getting free from the Court was going to his house, he was assaulted by the petitioners and their co-accused who were armed with weapons. As a result of which, the complainant suffered various injuries. On the statement of complainant Rishav Dev, the present case was registered. On completion of the investigation, the report under Section 173 Cr.P.C was presented in the Court only against Dalwinder Singh @ Babli, Balwinder Singh @ Whisky, Rajwinder Singh @ Raj and Jaspreet Singh @ Babbi. The present petitioners were declared innocent and were kept in column no. 2 of the report under Section 173 Cr.P.C. They have been summoned by the learned trial Court by exercising the powers under Section 193 Cr.P.C. Hence these petitions.

Learned counsel for petitioners contended that the petitioners were declared innocent during investigation and were not found to be present at the place of occurrence. Learned counsel for the petitioners

Kapil Dev and another contended that at the time of occurrence both these petitioners were present at Patiala which is evident from the call details and footage of CCTV camera installed at ATM, SBOP, branch Sai Market, Patiala. It shows that the falsity in the version of the complainant. They further contended that the petitioners are not required for any custodial interrogation. They are ready to join the trial and deserves the concession of anticipatory bail.

On the other hand, learned State counsel assisted by learned counsel for the complainant contended that complainant Rishav Dev was caused number of injuries including six grievous injuries for the reason that he has deposed against the petitioners in the previous case. The trial Court has summoned them to face the trial on the basis of material available on record. So, they did not deserve the concession of anticipatory bail.

The aforesaid contentions have been duly considered.

The contentions raised by learned counsel for the petitioners with respect to their false implication is a question touching the merits of the case and can only be determined on appreciation of the evidence. This fact has not been disputed at bar that the injury which attracted Section 308 IPC is not attributed to the present petitioners. It is also not disputed that during investigation all the petitioners were found innocent and were kept in column no.2 of the report under Section 173 Cr.P.C. They have only been summoned by the learned trial Court by exercising the powers under Section 193 Cr.P.C. Thus, presence of the petitioners is only required to join the trial and they are not required for any custodial

interrogation. Learned counsel for the petitioners have very fairly assured that petitioners will join the trial. So, their detention will not serve any purpose.

Thus, keeping in view my aforesaid discussion, the present petitions are hereby allowed and it is ordered that in the event of arrest, the petitioners be released on bail to the satisfaction of the Arresting Officer/ Trial Court on the conditions that the petitioners will not directly or indirectly tamper with the prosecution evidence, that they will not leave India without the prior permission of the trial Court and they will surrender before the learned trial Court within 15 days from today.

A copy of this order be placed on the connected case file.

01.07.2015

s.khan

**(DARSHAN SINGH)
JUDGE**