

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

Crl. Misc. No.M-30250 of 2014

Date of Decision: 21.02.2015

Mall Singh and another

....Petitioners

Versus

State of Punjab

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ?**
- 2. To be referred to reporters or not ?**
- 3. Whether the judgment should be reported in the Digest ?**

Present:- Mr. K.B. Raheja, Advocate
for the petitioners.

Ms. Ritu Punj, Addl. A.G., Punjab
for the respondent-State.

Mr. Kamal Narula, Advocate
for the complainant.

DAYA CHAUDHARY, J. (ORAL)

Petitioners namely Mall Singh and Iqbal Singh have filed this petition under Section 439 Cr.P.C for grant of regular bail to the petitioners in case FIR No.62 dated 18.05.2013 registered under Sections 302, 364, 325, 324, 323, 342, 148 and 149 IPC at Police Station Sadar Jalalabad, District Fazilka.

Learned counsel for the petitioners submits that the petitioners have falsely been implicated in the case. The FIR, in question, was registered on the basis of statement of one Surjit Singh. He further submits that the injuries attributed to the petitioners are simple in nature. He also

submits that it is a cross version case and five persons were injured from the petitioners' side. The case of the petitioners is at par with Pritam Singh, who has been granted bail by the lower Court. A specific mention is there while granting bail to Pritam Singh that no doubt, he has caused injury to the deceased but injury attributed to him is simple in nature. Learned counsel also submits that FIR No.172 dated 21.09.2013 was registered under Sections 376/451/34 IPC on the basis of statement of Jyoti Bala but the police was hand-in-glove with the other party as the FIR was registered only when directions were issued by this Court in **Criminal Misc. No.M-22176 of 2013**, decided on **23.10.2013**. The false implication of the petitioners cannot be ruled out as the FIR was registered against the complainant party because allegations of committing rape upon Jyoti, who was minor at the time of occurrence, were levelled against them. Learned counsel also submits that an application has also been moved under Section 319 Cr.P.C and trial will take long time to conclude as it will be a *de novo* trial and the petitioners are in custody since 23.10.2013 and no useful purpose would be served by keeping them in custody.

Learned State counsel as well as learned counsel for the complainant oppose the bail of the petitioners on the ground of seriousness of offence and also that contradictory statement has been made by said Jyoti, which cannot be relied upon. Learned counsel for the State as well as learned counsel for the complainant have not disputed regarding factum of granting bail to Pritam Singh, who is at par with the present petitioner.

Undisputedly, it is a case of version and cross version. Both the sides have received injuries. FIR under Section 376 IPC has been registered as allegations of committing rape upon Jyoti, who is from petitioners' side were levelled against the complainant party and the

alleged occurrence took place because of this serious allegation. As per role of the petitioners, only simple injuries have been attributed to them. Pritam Singh has also been granted bail, against whom the allegations of simple injuries were there, which have been caused to the deceased. Moreover, due to allowing of application under Section 319 Cr.P.C., trial may take long time to conclude and the petitioners are in custody since 23.10.2013 and no useful purpose would be served, if they are kept in custody.

Accordingly, this petition is allowed and the petitioners, namely, Mall Singh and Iqbal Singh are directed to be released on bail on their furnishing bail/surety bonds to the satisfaction of the trial Court.

However, it is made clear that anything stated here-in-above shall not bear any expression on the merits of the case, while deciding the case pending before the trial Court or decision of any application moved by either side.

21.02.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE