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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30785-2015

Date of Decision : Sept. 21st , 2015

Kashmir Singh and another Petitioners

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present Ms. Satwant Mehta , Advocate,
for the petitioners.

Mr. Varun Sharma, AAG, Punjab,
for the respondent-State.

SHEKHER DHAWAN, J.

Present petition under Section 438 of Code of Civil Procedure is for grant of anticipatory bail to the petitioners, who have been summoned by the trial Court as additional accused, in case bearing FIR No. 137 dated 29.6.2011 under Sections 302, 307 read with Section 34 IPC and Sections 25 and 27 of Arms Act registered at Police Station Patti, District Tarn Taran.

Relevant facts of the case, that complainant Bagicha Singh reported to the police that on 28.06.2011 at about 11.00 AM, he had gone to his cousin sister, who was married to Pargat Singh. There was a dispute of land between Pargat Singh and Jaswant Singh. No compromise could be effected between them. Pargat Singh was having a sale deed in his name and the possession of the land was also with him. Complainant had gone to take the tractor from Pargat Singh and Pargat Singh asked him to

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plough his fields. Complainant started ploughing the land. Jaswant Singh and his family members including daughters-in-law, came there and when he was about to take the round of the tractor, they threw kerosene oil on him and set him on fire. His tractor caught fire. On seeing this, Dilbagh Singh, brother of Pargat Singh came forward to save him and Jaswant Singh fired two shots towards Dilbagh Singh with his DBBL gun which hit in his abdomen. After raising lalkaras, Jaswant Singh went away to his home. Complainant saved his life by hiding himself in the meadow of paddy crops.

Learned counsel for the petitioners submitted that the petitioners are not named in the earlier statement of Bagicha Singh. More so, this is a case of version and cross-version. Petitioners were not summoned as accused, rather they were found innocent and they were put in column No. 2. No injury was attributed to the present petitioners and they have been attributed lalkaras only. Even the statement of PW-2 – Gursewak Singh, which has been recorded during trial of the case and on the basis of which, application under Section 319 Cr.P.C. was filed, suggests that the petitioners had not caused any injury to the deceased or the injured person and only lalkaras have been attributed. Cross case was registered by the police. It is yet to be ascertain as to which party is the aggressor-party. Custodial investigation of the petitioners is not required as the investigation had already been completed. More so, the petitioners are willing and ready to join the investigation as and when required. So, the petitioners be released on anticipatory bail.

Learned State counsel has opposed the bail application.

In view of the fact that the petitioners are not named in the FIR and rather, they were found innocent during the investigation; they have

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been summoned on an application under Section 319 Cr.P.C. on the basis of statement of Gursewak Singh [PW-2], who had attributed lalkars only to the petitioners; trial of the case still to take some more time and the custodial investigation of the petitioners is not required, both the petitioners namely, Kashmir Singh and Kulbir Singh are ordered to be admitted to bail on their furnishing bail/surety bonds to the satisfaction of the trial Court.

Petition stands allowed accordingly.

(SHEKHER DHAWAN)
JUDGE

Sept. 21st, 2015
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