

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

207 (1)

CRM-M-35644-2015

Date of Decision: February 1, 2016

JAGTAR SINGHPETITIONER

VERSUS

STATE OF PUNJABRESPONDENT

(2)

CRM-M-2812-2016

SURPREET SINGH AND ANR.PETITIONERS

VERSUS

STATE OF PUNJABRESPONDENT

(3)

CRM-M-42074-2015

TEJA SINGH AND ANR.PETITIONERS

VERSUS

STATE OF PUNJABRESPONDENT

CORAM:- HON'BLE MR. JUSTICE M.M.S.BEDI

Present: Mr.Atul Lakhanpal, Sr. Advocate
with Ms. Babli Kumari, Advocate
for the petitioner in CRM-M-35644-2015
Mr.Dhiraj Chawla, Advocate
for the petitioners in CRM-M-2812-2016
Mr.Davinder Bir Singh, Advocate
for the petitioners in CRM-M-42074-2015.

Ms.Harpreet K.Athwal,DAG, Punjab.

Mr.Gopal Singh Nahel, Advocate and
Mr.Aminder Singh, Advocate
for the complainant.

M.M.S.BEDI, J.(Oral)

This order will dispose of three applications for pre-arrest bail one filed by Jagtar Singh (CRM-M-35644-2015), second filed by Surpreet Singh and another (CRM-M-2812-2016) and third filed by Teja Singh and another (CRM-M-42074-2015).

The FIR was lodged at the instance of Harpal Singh alleging that the petitioners had constituted an unlawful assembly and they, armed with gandasi, kharpa and dang, attacked the complainant and his brothers

while they were constructing boundary wall in their fields. Jagtar Singh is attributed a dang blow on the left shoulder of Jagtar Singh brother of complainant and another dang blow on the right elbow of other brother of the complainant Chamkaur Singh. Teja Singh and Ramandeep Singh have been attributed kharpa blow on the forehead of the complainant and head of brother of the complainant Jagtar Singh respectively. Surpreet Singh and Gurpreet Singh were allegedly armed with ghop and gandasi respectively. Surpreet Singh gave ghop blow on the head of Chamkaur Singh whereas Gurpreet Singh gave gandasi blow on the head of Jagtar Singh.

In reply filed on behalf of the State, it has been informed that the investigation was conducted by DSP in the present case and offence under Section 307 IPC was found to be not made out and only offences under Sections 324, 323, 148, 149 IPC were made out.

Counsel for the complainant has intervened to oppose the applications contending that the investigation agency in connivance with the accused a wrong report has been submitted to give benefit to the petitioners.

I have heard counsel for the petitioners, counsel for the complainant and State counsel and I am of the opinion that till date prosecution agency has not made up final opinion regarding existence of commission of offence under Section 307 IPC in the present case. It has been informed that still another inquiry has been desired by the brother of the complainant.

Taking into consideration the totality of the the above said circumstances, it transpires that on the basis of inquiry till date offence under Section 307 IPC is not made out and other offences are bailable offences. In the said circumstances, the present petitions for pre-arrest bail are not maintainable. It will be open to the petitioners to seek bail in accordance with law.

Counsel for the petitioners at this stage have raised apprehension that offence under Section 307 IPC could be added at any time as brother of the complainant has sought another inquiry.

These petitions are disposed of, at this stage, being not maintainable, with liberty to the petitioners to avail the remedy of bail in accordance with law as Section 307 IPC till date stands deleted. It is however observed that in case, at any subsequent stage, on the basis of investigation, the prosecution agency decides to present challan under Section 307 IPC or the investigation agency arrives at a conclusion that Section 307 IPC prima facie is made out, the petitioners will be issued a notice of seven days in order to enable them to avail legal remedy in accordance with law.

February 1, 2016
TSG

(M.M.S.BEDI)
JUDGE