

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

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(1)

CRM-M-38075-2015

Date of Decision: January 21, 2016

IQBAL KAUR AND ANR

.....PETITIONERS

VERSUS

STATE OF PUNJAB

.....RESPONDENT

(2)

CRM-M-41209-2015

MOHD.SUHAIL

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

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

Present: Mr. Akshay Bhan, Sr. Advocate with Mr. G.S. Sandhu, Advocate for the petitioners in CRM-M-38075-2015

Mr. Vikram Singh, Advocate for the petitioner in CRM-M-41209-2015

Ms. Simsi Dhir Malhotra, DAG, Punjab

Mr. A.P. Singh, Advocate for Mr. Navjot Singh, Advocate for the complainant

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

This order will dispose of two petitions one filed by Iqbal Kaur and Surinder Singh (CRM-M-38075 of 2015) and another filed by Mohd. Suhail (CRM-M-41209 of 2015) for grant of pre-arrest bail in a case which was registered on the basis of a complaint filed under Section 156(3) of the Code of Criminal Procedure. As per the allegations in the FIR Harjinder Kumar and Shivani complainants had filed papers for the post of Sarpanch. It is alleged that the nomination of Harjinder Kumar and Shivani were liable to be rejected on the ground that they were in possession of land belonging to Gram Panchayat. Allegations against Iqbal Kaur and Surinder Singh petitioners is that they had connived with co-accused Mohd. Suhail and

interpolated two lines in the Kanungo report prepared by Kanungo Jasbir Singh, indicating that Harjinder Kumar and Shivani were in illegal possession of different pieces of land. On the basis of allegations that a forged report was used to get the nomination papers of candidates Harjinder Kumar and Shivani rejected FIR has been registered. The petitioner Iqbal Kaur is alleged to have signed the forged report in the capacity as Ex-Sarpanch whereas petitioner Surinder Singh is alleged to have planned the conspiracy and directed Mohd. Suhail petitioner to prepare the forged Kanungo report by changing the two line as mentioned here in above.

Mr.A.P.Singh, Advocate appearing for Mr.Navjot Singh, counsel for the complainant has vehemently contended that the petitioners having been instrumental in preparing a forged report and getting the nomination of the above said persons rejected causing serious prejudice to them, the petitioners should not be granted the pre-arrest bail to the petitioners.

State counsel has also alleged that on account of two lines incorporated regarding illegal possession of the land by the candidates, a serious prejudice has been caused to the candidates.

I have heard counsel for the petitioners, counsel for the complainant as well as the State counsel. On asking of the Court it has been informed that against the rejection of the nominations, no representation was filed by Harjinder Kumar and Shivani. It is an admitted fact that allegations levelled by the complainant are subject matter of the Election Petition which has been filed by them to challenge the election of elected Sarpanch (petitioner No.2 Surinder Singh). The authenticity of the

report which has resulted in disqualification of the complainants is yet to be determined in election petition.

It is not out of place to mention here that counsel for the petitioners here made a reference to certain reports which are indicative of the complainant being in possession of Panchayati land.

Without expression of any opinion on merits, regarding the disqualification of the complainants it is sufficient to observe that the election dispute is subjudice before the Election Tribunal. Petitioners having joined investigation, can be granted the concession of pre-arrest bail.

The petitions are allowed. The petitioners are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of the Arresting Officer subject to the conditions that the petitioners will join investigation as and when required and will not tamper with the evidence or hamper investigation in any manner.

Nothing said in this order will effect the adjudication in Civil litigation and will not effect the merits of the case or any litigation pertaining to the Election pending before any forum.

January 21, 2016
TSG

(M.M.S.BEDI)
JUDGE