

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

1.	CRM-M No.10890 of 2017 (O&M)	
Dr. Parkash Saini		... Petitioner
Versus		
State of Haryana		... Respondent
2.	CRM-M No.13220 of 2017 (O&M)	
Rahul Kumar		... Petitioner
Versus		
State of Haryana		... Respondent

Date of decision: 27th April, 2017

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. J.S. Bedi, Senior Advocate with
 Mr. L.S. Chahal, Advocate
 for the petitioner in CRM-M No.10890-2017.

 Mr. Anil K. Sharma, Advocate
 for the petitioner in CRM-M No.13220-2017.

 Mr. Munish Sharma, Asstt. Advocate General, Haryana
 for the respondent/State.

 Mr. Deepak Jindal, Advocate for the complainant.

FATEH DEEP SINGH, J.

Since both these anticipatory bail applications under Section 438 Cr.P.C. by petitioners Dr.Parkash Saini and Rahul Kumar have arisen out of the same very FIR and thus, for the sake of brevity are being disposed off together.

The brief allegations by complainant Dr.Raj Saini who also happens to be estranged wife of petitioner Dr.Parkash Saini are that on

11.02.2016 around 10.00 p.m. her husband, with whom she was having litigation, along with his sister Sheela Devi, Sethi son of Sher Singh and 20/25 unknown persons trespassed into Parkash Hospital regarding which a civil suit is already pending between the husband and wife, and with the intention to take forcible possession, vandalized the same and that at the time of alleged occurrence petitioner Dr.Parkash Saini has enticed the accused to kill the complainant side and that at that time the co-accused who are gunda persons armed with rods, knives, kirpan and pistol have broke open the locks and assaulted the complainant.

Learned counsel for the petitioners Mr. J.S. Bedi, Senior Advocate assisted by Mr. L.S. Chahal, Advocate representing petitioner Dr.Parkash Saini, has sought to make submissions that petitioner Dr.Parkash Saini was initially arrested in this case and was released on bail and subsequently with the addition of offences under Sections 455/427 IPC his custodial interrogation is no more required and that too after such a long delay, submitting further that the other petitioner is neither named in the FIR nor any specific role is attributed to him and it is a pure counterblast by the wife to undo and desist the husband from laying his claim over the property of the hospital and that nothing is to be recovered from him.

The prayer made by the petitioners is sought to be opposed by Mr. Deepak Jindal, Advocate representing the complainant who has made vociferous attack on the petitioner side of the likelihood that if they are allowed bail they would influence the witnesses besides causing

further injuries and annoyance to the complainant side and has sought support from ‘Major Gurjinder Singh Benipal v. State of Punjab & others’ 2012(4) RCR (Criminal) 743; ‘Rama Chaudhary v. State of Bihar’ 2009(2) RCR (Criminal) 570; ‘State of A.P. v. A.S. Peter’ 2008(3) RCR (Criminal) 131; and ‘Bharuch Textile Mills Ltd. v. State of Gujarat & others’ 2000(4) GCD 3386.

Appreciating the submissions, undisputedly petitioner Dr.Parkash Saini was initially arrested and released on bail and thus, it is not a case of custodial interrogation as nothing is to be recovered from him in the light of own stand of the State at this juncture. A bare perusal of the FIR nowhere depicts any specific role to the petitioner Rahul Kumar. Even the photographs so annexed from the side of the complainant at the most bears out a case of ransacking from which not much is decipherable qua the petitioners. The parties who have matrimonial dispute leading to a dispute over the properties and admittedly civil matters are pending between them, keeps the Court on its guard to rule out any fabrication and exaggeration with an intent to have upmanship in this long drawn legal battle between the two sides. Thus, culpability, if any, shall be determined at the time of trial and not much help can be derived by learned counsel for the complainant from the cited ratios on account of factual disparity. In the light of what has been detailed and discussed above, prayer of both the present petitioners is allowed. Accordingly, in the event of arrest, both petitioners are ordered to be released on bail to the satisfaction of the Arresting Officer till

submission of report under Section 173 Cr.P.C. (challan). They shall continue to join investigation and shall furnish an undertaking that they shall abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, petitioners will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

Both the petitions stand disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

April 27, 2017

rps

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No