

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 15383 of 2017 (O&M)
Date of decision : 25.7.2017

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Pankaj Kumar @ Kala and others

.....Petitioners

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Mrigank Sharma, Advocate for the petitioners

Mr. Gaurav Bansal, Assistant Advocate General, Haryana

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H. S. Madaan, J.

This application for regular bail has been filed by Pankaj Kumar @ Kala, Rajesh Kumar @ Khanna and Surinder @ Salinder, all of them being accused in FIR No. 74 dated 6.6.2016 under Sections 148, 149, 323, 325, 307, 506 IPC, registered at Police Station Barara, District Ambala.

Briefly stated, the prosecution story is that on 3.6.2016 at about 7.30 A.M., while complainant Mehar Chand s/o Savan Ram, of Harijan community r/o Village Manumaajra, Police Station Barara, District Ambala, aged about 60 years, was present near tubewell in

front of his house and his wife Sarswati was also present there. At that time, Salinder, Rajesh Subhash s/o Krishan Lal and Pankaj, Rakesh s/o Niranjana and Krishan s/o Sawan Rama and Jayawanti w/o Suresh, Mamta w/o Salinder, Sonia w/o Subhash, Kamlesh w/o Rajesh, Rekha w/o Pankaj, came there and started giving abuses to him stating that he had not distributed the land properly and completely. Then all of them assaulted the complainant with lathis and dandas. Pankaj, Salinder and Rajesh caused injuries on him with lathis on his head, whereas Subhash, Rakesh and Krishan etc. hit him on his left shoulder and back besides left arm and right hip etc. When Saraswati tried to save the complainant, then she was hit by Jayawanti, Mamta, Sonia, Kamlesh, Rekha with lathis and fist blows. Lathi blows were given by Jayawanti and then Kuldeep son of the complainant raised alarm. Thereafter the assailants ran away from the spot alongwith their respective weapons.

It is stated that initially, the FIR had been registered for offences under Sections 323, 325, 148, 149, 506 IPC. All the accused including the petitioners were arrested. However, they had been released on bail. Subsequently, offence under Section 307 IPC was added after a period of 4 months. Then the accused were arrested and presently, they are in judicial custody.

I have heard learned counsel for the petitioners, learned State counsel besides going through the record.

Since initially, after registration of the FIR when the accused had been arrested, they had been granted benefit of bail. It is not the case of prosecution that they had misused the bail during that period.

Furthermore, the challan is stated to have been filed in the Court and trial is at preliminary stage i.e. on the point of consideration of framing of charge, the next date of hearing being 31.7.2017, in the Court of Additional Sessions Judge, Ambala. It is further in dispute that there is cross version of the incident also.

It is further stated that 6 of the co-accused of the petitioners have been granted concession of regular/pre-arrest bail. Copies of some orders in that regard have been placed on the file.

Since the conclusion of trial is likely to take considerable time and guilt of accused would be established only during the trial, considering all the facts and circumstances, I am of the view that further detention of the petitioners shall not serve any purpose, as such the petition is allowed and petitioners are ordered to be released on bail subject to furnishing of personal bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Ambala. Chief Judicial Magistrate, Ambala, while accepting the bonds, may impose suitable terms and conditions to ensure that accused attend the dates of hearing regularly and do not abscond.

(H.S. Madaan)
Judge

25.7.2017

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Whether speaking / reasoned Yes / No

Whether reportable Yes / No