

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

1. **Criminal Misc. No.M- 28112 of 2017(O&M)**
Date of Decision: August 10 , 2017.

Balbir Kaur @ Beero PETITIONER(s)

Versus

State of Punjab RESPONDENT (s)

2. **Criminal Misc. No. M- 28004 of 2017(O&M).**

Love Preet Singh PETITIONER(s)

Versus

State of Punjab RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Jasmeet Singh Bhatia, Advocate
for the petitioners.

Mr. Davinder Bir Singh, DAG, Punjab.

LISA GILL, J.

This order shall dispose of Crl. Misc. No.M-28112 of 2017 (Balbir Kaur @ Beero v. State of Punjab) and Crl.Misc. No.M-28004 of 2017. For the sake of convenience, the facts are being taken from CRM No.M-28112 of 2017.

The petitioners in both the petitions pray for bail pending trial in FIR No.108 dated 14.04.2017 under Sections 316/323/452/149/506 IPC registered at Police Station Khanna, District Ludhiana.

As per the allegations in the FIR, Petitioner – Balbir Kaur @ Beero is alleged to have pushed the complainant's sister due to which she fell down. Thereafter she is stated to have kicked the sister of the complainant in the abdomen. The petitioner – Love Preet Singh is attributed with a rod blow on the forehead of the complainant.

Learned counsel for the petitioners submits that the injury attributed to petitioner – Love Preet Singh has been declared a simple injury. Moreover, no offence punishable under Section 316 IPC is made out for the reason that the factum of the complainant's sister being pregnant is not even mentioned in the FIR. Furthermore as per the medical evidence on record, the foetus was six to eight weeks old. As per the opinion of the doctor after the ultrasound, it is mentioned that it is not sure whether miscarriage was caused by the trauma of the injury though possibility of the same cannot be excluded.

Learned counsel relies on the judgment of this Court in Dal Chand @ Dali v. State of Haryana, 2011(3) RCR(Criminal) 173 to submit that to attract the rigours of Section 316 IPC, the foetus in question must be more than twelve weeks old. The foetus was admittedly six to eight weeks, therefore it cannot be said that the complainant's sister was carrying a 'quick unborn child'. There is nothing on record to show that the accused were even aware of the pregnancy of the said person. It is further submitted that the co-accused in this case, namely, Mangat Singh and Sukhwinder Kaur @ Sony have been afforded the concession of bail pending trial by this Court in CRM No.M-22837 of 2017 and CRM No.M-23334 of 2017 on 25.07.2017. Therefore, these petitions be allowed.

Heard learned counsel for the parties.

Learned counsel for the State, on instructions from ASI Jagtar Singh, verifies that the foetus in question was indeed six to eight weeks old and the medical opinion as above is on record. It is informed that the final report under Section 173 Cr.P.C. has been presented. It is verified that the petitioners are not involved in any other criminal case. No recovery is to be effected from them.

Trial in this case is not likely to conclude in the near future. No useful purpose would be served by keeping the petitioners incarcerated any longer in the facts and circumstances of this case. There are no allegations on behalf of the State that the petitioners are likely to abscond or that they are likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, both the petitions filed by Balbir Kaur @ Beero and Love Preet Singh are allowed. The petitioners shall be released on bail pending trial subject to their furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

August 10 , 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No