

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

(1)

CRM-M-30212-2017(O&M)

Date of decision:-14.9.2017

Pardeep Singh

...Petitioner

Versus

State of Haryana

...Respondent

(2)

CRM-M-30269-2017(O&M)

Jang Bahadur

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. S.S. Momi, Advocate
for the petitioners.

Mr.Gaurav Bansal, AAG, Haryana.

Mr.Ashit Malik, Advocate
for the complainant.

H.S. MADAAN, J.

By this order, I intend to dispose of two petitions i.e. **CRM-M-30212-2017** filed by petitioner Pardeep Singh and **CRM-M-30269-2017** filed by petitioner Jang Bahadur for grant of regular bail, who are accused in FIR No.616 dated 3.12.2016, under Sections 307, 323, 506, 34 IPC registered at Police Station Shahabad, District Kurukshetra.

Briefly stated, the facts of the case as per prosecution version are that FIR in question was recorded on the basis of statement of

complainant Sukhvinderjit Singh son of Jagdish Singh of Kamboj Sikh community, resident of village Saidpur Barwalia, Police Station Shahabad, District Kurukshetra, aged about 32 years. In the said statement, he stated that he is an agriculturist by avocation having a tubewell installed in his agricultural land situated at village Fatehgarh Jharoli; that on 30.11.2016, he and his father – Jagdish Singh had gone to repair roof of their tubewell room at village Fatehgarh Jharoli; that a civil litigation between them and Himmat Singh son of Sulakhan Singh, Kamboj Singh community, resident of village Nalvi, Police Station Shahabad with respect to 6 Kanals 1 Marla of land had been pending in the Court at Shahabad, as a result of which Himmat Singh and his sons Pardeep Singh and Jang Bahadur Singh had a grudge against them; that on the said date at about 4:00 p.m., when the complainant and his father Jagdish Singh were standing at their tubewell, then Himmat Singh, Pardeep Singh, Jang Bahadur Singh as well as Daler Singh, residents of village Nalvi, Police Station Shahabad came there on two motorcycles, which they parked at some distance and they came towards complainant and his father; that Pardeep Singh was having a *gandasi* (axe), Jag Bahadur Singh was having *kulhari* (axe), Daler Singh was having *gandasi* (axe) and Himmat Singh was having a *lathi* (club); that Jang Bahadur raised a *lalkara* saying that on that day father and son were alone and they be taught a lesson for filing case against them and they should be cut into pieces; that complainant and his father ran towards the fields to save themselves; that they were chased by Pardeep Singh, who gave a *gandasi* blow to Jagdish Singh hitting him in middle of the head; that when

Jagdish Singh fell down and he tried to get up then Jang Bahadur Singh gave a kulhari (axe) blow on his head; that thereafter Daler Singh gave a gandasi blow on the head of Jagdish Singh hitting him on the right side thereof; that when complainant tried to save his father, then Himmat Singh aimed a lathi blow on his head; that when the complainant raised his right hand then the lathi hit thereon; that thereafter Daler Singh attacked the complainant from reverse side of gandasi hitting him on right shoulder; that Himmat Singh attacked complainant with lathi hitting him in the middle of his forearm; that when Jagdish Singh tried to get up then Pardeep Singh gave a gandasi blow to Jagdish Singh resultantly Jagdish Singh fell down; that then Daler Singh attacked Jagdish Singh on head with gandasi; that while Jagdish tried to save his head, the blow hit him on left hand; that complainant and his father raised alarm, at which the assailants ran away from the spot on their motorcycles along with their respective weapons giving threats that they would kill them in future; that Jagdish Singh had become unconscious. Both the injured were removed to Civil Hospital, Shahabad from where they were referred to PGI, Chandigarh. Jagdish Singh was admitted there, however, complainant was referred back to Civil Hospital as injuries on his person were simple in nature. Both the accused were arrested in this case. After completion of investigation and other formalities, accused were challaned. Trial against them is stated to be pending in the Court. The petitioners had filed application for regular bail in the Court of Sessions but remained unsuccessful, as such they have approached this Court asking for being released on bail.

Notice of the petitions was given to the respondent – State, which is being represented through State counsel.

I have heard learned counsel for the parties besides going through the record.

At the very outset, learned counsel for the petitioners has pointed out that in terms of allegations in the FIR Jagdish Singh had suffered 5-6 injuries inflicted with sharp edged weapons on head, i.e. gandasi blow by Pardeep Singh hitting him in middle of head, kulhari blow by Jang Bahadur Singh, hitting Jagdish Singh on head, gandasi blow by Daler Singh hitting him on right side of head, Pardeep Singh giving another gandasi blow hitting Jagdish Singh, Daler Singh giving another gandasi blow hitting Jagdish Singh on head. But then as per MLR of Jagdish Singh only one injury was found on head that too caused with a blunt weapon, which puts a question mark over authenticity of the prosecution story. The injuries on the person of complainant are simple in nature. It is further contended that the place where the incident is said to have taken place is in the form of agricultural land belonging to Wakf Board in possession of the accused party as lessee for last 40-50 years, total area being 26 Kanals 4 Marlas. Further, the complainant and his father wanted to grab the said land.

Learned Court below has dealt with such aspects in detail. Learned Additional Sessions Judge, Kurukshetra after detailed discussion had granted bail to petitioner – Himmat Singh observing that although he is alleged to be present at the place of occurrence, he had not been attributed any of the five injuries and detection of only one injury on the

person of Jagdish Singh creates a doubt in respect of truthfulness of contents of FIR; that petitioner Himmat Singh is aged more than 70 years and he has been attributed lathi injury only upon the complainant, while observing that the land where the fight took place is wakf property in possession of petitioner Himmat Singh and his sons for last 50 years and that on 22.6.2016 Himmat Singh had filed a civil suit for permanent injunction against complainant Sukhwinderjeet Singh and his father Jagdish Singh; that in the said suit learned Civil Judge(Jr.Divn.), Shahabad vide order dated 28.6.2016 had restrained complainant Sukhwinderjeet Singh and his father Jagdish Singh from interfering into peaceful possession of petitioner over the suit land and that order was confirmed by the said Court on 17.8.2016; that Civil Miscellaneous Appeal filed against said order was dismissed by the then learned Additional District Judge, Kurukshetra vide order dated 7.10.2016 and that having lost the civil litigation, FIR could have been lodged as a counter-blast to get forcible possession of the land from the petitioners. It has further been noticed that Daler Singh named in the FIR had been declared innocent by the police. It is stated that in the trial statements of complainant Sukhwinderjeet Singh and Jagdish Singh eye-witness have since been recorded. Then the petitioners come up with a plea of self-defence also, though the said plea is to be looked into by the trial Court.

From the record, it is revealed that injuries found on the person of complainant are said to be simple in nature. As regards injury observed on the person of Jagdish Singh merely because of the fact that it is an injury on the head, it has been declared as dangerous to life, which

does not seem to be much convincing. The medical evidence does not support the assertions in the FIR and the prosecution story based thereon.

Under the circumstances, I find it proper and appropriate if concession of regular bail is granted to the petitioners.

Accordingly, the petitions are allowed. The petitioners namely Pardeep Singh and Jang Bahadur are ordered to be released on bail during the pendency of the trial, subject to their furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Kurukshetra, on following conditions:

- (i) They shall appear in the Court on each and every date of hearing.
- (ii) They shall not give any threat or intimidation to the prosecution witnesses.
- (iii) They shall not leave India without prior permission of the Court.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioners do not abscond and interfere in the trial.

The petitioners-accused are also directed to surrender their passports if they have got ones otherwise to furnish affidavits in that regard. In case the petitioners violate any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail.

It is made clear that if the petitioners are found to be involved in any criminal act at any stage after being released on bail, the order

granting them bail would be liable to be withdrawn.

The petitions stand allowed accordingly.

However, nothing observed hereinabove shall be construed as
expression of opinion on the merits of the case.

14.9.2017
Brij

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No