

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

**Criminal Misc. No.M-30975 of 2017 (O&M)
Date of Decision: August 24, 2017**

Darshan Singh and others

.....PETITIONER(s).

VERSUS

State of Punjab and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Preetinder Singh Ahluwalia, Advocate
for the petitioner (s).

SURINDER GUPTA, J.

Heard.

This is application seeking anticipatory bail to the petitioners in complaint filed by respondent No.2, wherein the petitioners along with other accused have been ordered to be summoned for the offences punishable under Sections 3, 5 and 7 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Learned counsel for the petitioners submits that complainant is habitual of making such type of complaints and this is evident from the inquiry report (Annexure P-6), wherein the Assistant Superintendent of Police, Sub Division Kartarpur, Jalandhar Rural has observed that complainant has moved such type of complaints against various parties since the year 2010. He has given details of 8 such complaints moved by him during the period of 2010 to 2013.

Notice of motion.

On asking of the Court, Ms. Rajni Gupta, Sr. DAG, Punjab, who is present in the Court, accepts notice on behalf of respondent No.1-State.

Mr. Ravi Malhotra, Advocate, who is present in the Court, has put in appearance on behalf of respondent No.2-complainant.

I have heard learned counsel for the petitioners and learned counsel for the respondents in detail.

As per the allegations attracting provisions of Section 3 of the Act, which find mentioned in para 7 of the complaint filed by the petitioner, all the accused who are 12 in number, armed with different weapons came to the house of complainant and used words "*Kutia-Chamara, how dare you to live here and have polluted this area, we do not allow you to live here and accordingly chamar be shunted out from here, if he does not agree to the same, he will be done to death, we will face the consequences.*" However, while appearing as CW1, the petitioner confined the use of these words to Surinder Kaur one of the accused and not to all of the 12 accused named and summoned in the complaint. Assistant Superintendent of Police, Sub Division Kartarpur, Jalandhar Rural had also looked into the complaints made by respondent No.2-complainant against Sarpanch Satnam Singh and others and made observations as follows:-

During investigation, in most of the complaints which have been given by Satwinder Pal after 2010 against Sh. Satnam Singh Sarpanch and Kulwant Singh party, it has been alleged about saying caste related ill-words to him by Satwinder Pal, whose photocopies have been presented by

Satwinder Pal. The details of which is as follows:

S. No	Complaint No. and Date	Against	Subject	Special Remarks
1.	395-BH dated 17.05.2010	Sewa Singh, Bhajno, his both sons Kulwant Singh, Balwinder Singh, grandson Hardeep Singh, Balraj Singh and Balveer Kaur	For threatening to kill and for speaking ill-words related to caste	
2.	705-Peshi dated 27.05.2010	Sewa Singh, Bhajno, his both sons Kulwant Singh, Balwinder Singh, grandson Hardeep Singh, Balraj Singh and Balveer Kaur	For threatening to kill and for speaking ill-words related to caste, suffixing terrorist	
3.	556-BH dated 22.06.2011	Hardeep Singh, Balraj Singh son of Balwinder Singh village Khurdpur, Satveer Singh son of Santokh Singh, village Khurdpur, Jaspreet Singh son of Amarpal Singh village Khurdpur.	For hurling bricks, stones on house, for entering in the house along with deadly weapons and for pelting bricks stones and for speaking caste related ill-words	
4.	1241-Peshi dated 26.08.2010	Hardeep Singh son of Balwinder Singh, Balraj Singh son of Balwinder Singh, Caste Jatt, resident of village Khurdpur	For coming to his house on the intervening night of 18.08.2010 and attacking with weapons, threatening to kill and for speaking caste related ill-words	
5.	556-BH dated 22.06.2011	Hardeep Singh, Balraj Singh son of Balwinder Singh, village Khurdpur, Satveer Singh son of Santokh Singh, village Khurdpur, Jaspreet Singh son of Amarpal Singh village Khurdpur	For pelting brick stones on the house, for entering in the house along with deadly weapons and pelting brick stones and speaking caste related ill-words	

6.	430-BH dated 12.08.2012	Narinderjit Kaur, Sarpanchni Gram Panchayat, Darshan Singh son of Shiv Singh, Harbhajan Singh son of Tara Singh, Satnam Singh son of Late Jarnail Singh, Kulwant Singh son of Sewa Singh, Hardeep Singh son of Balwinder Singh, Balraj Singh son of Balwinder Singh residents of Khurdpur, Davinder Kaur wife of Joginder Singh resident of Near Colony Gurdwara Sahib, village Dana Mandi, District Hoshiarpur	For coming to house in the night and for taking forcible possession by Panchayat and for speaking caste related ill-words	
7.	159-PIZ dated 15.03.2013	Joginder Singh son of Raghuvir Singh son of Udham Singh resident of Khurdpur, Surinder Kaur daughter of Kartar Singh, resident of village Khichipur Narang, Harbhajan Singh son of Kartar Singh, Satnam Singh son of Jarnail Singh, Kulwant Singh son of Sewa Singh, Sewa Singh son of Ram Singh, Darshan Singh son of Shiv Singh, Hardeep Singh son of Balwinder Singh, Balraj Singh son of Balwinder Singh, Balwinder Singh son of Sewa Singh, Harpal Singh son of Kishan Singh, Narinderjit Kaur wife of Rachhpal Singh, Harbhajan Kaur wife of Sewa Singh, Parvinder Singh son of Kartar Singh, Kanchan Gupta wife of Krishan Gupta all residents of village Khurdpur	For trying to take illegitimate possession of the house on 07.03.13 at 7:30 p.m., threatening his family to kill and for speaking caste related ill-words	The complaint was filed for being found to be baseless

8.	99-PTD dated 15.03.2013	Joginder Singh son of Raghuvir Singh son of Udham Singh, resident of Khurdpur, Surinder Kaur daughter of Kartar Singh, resident of village Khichipur Narang, Harbhajan Singh son of Kartar Singh, Satnam Singh son of Jarnail Singh, Kulwant Singh son of Sewa Singh, Sewa Singh son of Ram Singh, Darshan Singh son of Shiv Singh, Hardeep Singh son of Balwinder Singh, Balraj Singh son of Balwinder Singh, Balwinder Singh son of Sewa Singh, Harpal Singh son of Kishan Singh, Narinderjit Kaur wife of Rachhpal Singh, Harbhajan Kaur wife of Sewa Singh, Parvinder Singh son of Kartar Singh, Kanchan Gupta wife of Krishan Gupta, all residents of village Khurdpur.	For trying to taking illegitimate possession of his house on 07.03.13 at 7:30 p.m., for threatening to kill his family members, for speaking caste related ill-words	The complaint was filed for being found to be baseless.
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The inquiry officer has also examined various complaints and litigation initiated by respondent No.2, which were ultimately found to be false and as elaborately referred the same in his report.

Learned counsel for the petitioners has pointed out that the complainant-respondent No.2 has cited Baljinder Pal Singh, brother of Surinder Kaur as his witness with whom Surinder Kaur was having litigation that he had sold the property owned by Surinder Kaur and other heirs of kartar Singh to complainant. The dispute regarding that house is pending before the Court and the title of the complainant itself is in dispute.

Learned counsel for the complainant has argued that

complainant is the only person belonging to the scheduled caste category living in the village and has dispute with the Sarpanch and other members of the village who are influential and having political links. He has no rivalry except against whom he made the complaint to the police from time to time against the action of the accused.

Petitioner No.1 Darshan Singh is stated to be 95 years old, Bhajan Kaur 81 years old, Sewa Singh 80 years old and Harbhajan Singh 70 years old. The documents regarding proof of their age have been placed on record as Annexure P-4 (Colly). When the title and ownership of the property is in dispute and the derogatory words have been attributed to 12 persons jointly and to single person while appearing as PW1 by the complainant, it is for the trial Court to look into as to whether the offence under Sections 3, 5 and 7 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are made out or not.

Keeping in view the above facts, this petition is allowed and the petitioners are directed to surrender before the concerned Illaqa/Duty Magistrate within a period of two weeks and on their appearance, they will be released on bail on furnishing bail bonds and surety bonds to the satisfaction of Illaqa/Duty Magistrate, Jalandhar, subject to the condition that petitioners shall appear before the Court on each and every date of hearing. In the event of their non-appearance on any date, the Court will be competent to cancel their bail and forfeit the bail bonds and surety bonds and the petitioners may be taken into custody.

August 24, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE