

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

1. CRM-M No.38068 of 2017

Gursewak Singh

... Petitioner

Versus

State of Punjab

... Respondent

2. CRM-M No.40288 of 2017

Gurpreet Singh

... Petitioner

Versus

State of Punjab

... Respondent

Date of decision: 21st November, 2017

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. P.S. Sekhon, Advocate for the petitioners.

Mr. N.K. Banka, Dy. Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J.

Both these anticipatory bail applications under Section 438 Cr.P.C., one by Gursewak Singh and the other by Gurpreet Singh, having arisen out of the same very FIR bearing No.114 dated 02.09.2017 under Sections 307, 353, 186, 224, 332, 148, 149 IPC and sections 25, 27, 54, 59 of the Arms Act pertaining to Police Station Kot Ise Khan, District Moga, are being taken up together for disposal for the sake of brevity.

Allegations of the prosecution brought before this Court are that on 02.09.2017 complainant ASI Jaswinder Singh, In-charge of Police Post Daulewala, Police Station Fatehgarh Panjtoor (Moga) along with

other police officials received secret information regarding ferrying of contraband by one Bikkar Singh who is earlier wanted in case bearing FIR No.102 dated 11.06.2017 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 pertaining to Police Station City South, Moga. Thereafter, the said person was seen coming on a scooter bearing registration No.PB-29U-1394 and when the police party tried to nab him, said Bikkar Singh after throwing off his scooter ran towards the fields and when the police party chased him, accused Bikkar Singh on mobile phone gave intimation to his accomplices. On arrest of said Bikkar Singh, 8-10 persons came on 3-4 motorcycles who were identified as accused Deban Singh armed with baseball bat, Gursewak Singh armed with iron rod, Dogar Singh armed with pistol, Gurpreet Singh armed with brickbat along with 4-5 other unknown persons all armed with lethal weapons, encircled the police party and attacked them. At that time accused Dogar Singh fired a shot from his pistol which missed the complainant and in the process these persons managed to flee away with Bikkar Singh and while doing so Bikkar Singh threw a brick which hit HC Gurdeep Singh on his head and in his self defence HC Gurdeep Singh fired shot from his official weapon which ricocheted and hit one of these persons who all ran away.

Contentions of learned counsel for the petitioners Mr.P.S. Sekhon, Advocate are that no specific role is attributed to the petitioners and that nothing is to be recovered from them and that it was a concocted story put up by the police and that only simple injury at the most is made

out on the person of police official and rather it was the police which had illegally occupied the house of Deban Singh and opened a police post and therefore the petitioners have been falsely roped in being supporters of Deban Singh.

Learned State counsel has vehemently argued to oppose both the bail applications on the grounds that it was a legitimate allegation as per the own stand of one of the petitioners earlier taken in another petition where he admits that Deban Singh has given the house on rent and therefore, question of illegal occupation by the police is not made out and custodial interrogation of the petitioners is very much essential for recovery of the weapons of offence including firearm.

Appreciating the submissions, the own stand of the petitioner Gurpreet Singh in his bail application admits that the police had taken house of Deban Singh for opening temporary police post on rent in the month of April 2017 and which is claimed to be the bone of contention between the two sides and thus, the arguments of learned counsel for the petitioners that police has forcibly occupied the house of Deban Singh is negated by the stand of the petitioners. The prima facie allegations which could not be displaced by learned counsel for the petitioners regarding the finding that one of the accused Bikkar Singh was wanted by the police and upon his arrest the accused side has assaulted the police and after giving them injuries managed to flee with the accused, are matters of serious repercussions. Such like mob mentalities coming in the way of public officials carrying on with their official duties, need to be curbed.

In view of the seriousness of the allegations and heinousness of the offence and that custodial interrogation of the petitioners is very much essential for recovery of the weapons of offence, no case for grant of anticipatory bail to the petitioners is made out and more so the provisions of Section 438 Cr.P.C. are to be sparingly used. Thus, finding no merit, both the present petitions stand dismissed.

(FATEH DEEP SINGH)
JUDGE

November 21, 2017

rps

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No