

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

201

CRM-M-41255 of 2016

Date of Decision: May 25, 2017

Kuldip Singh and another

....Petitioners

vs.

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Veneet Sharma, Advocate
for the petitioners.

Ms. Harpreet K. Athwal, DAG, Punjab.

TEJINDER SINGH DHINDSA, J. (Oral)

Petitioners seek concession of pre-arrest bail in FIR No.156 dated 26.08.2015, under Sections 326/324/323/506/34 IPC, registered at Police Station Lopoke, Amritsar Rural, District Amritsar.

On 18.11.2016, while granting interim protection to petitioner No.1, the following order was passed:-

“Petitioners seek concession of pre-arrest bail in a case registered at the instance of Sukhamritpal Singh alleging that on 12.08.2015 petitioner No.1 Kuldip Singh along with his son petitioner No.2 Harbhajan Singh had been constructing a wall. On questioned, the reason for raising the wall, Kuldip Singh petitioner No.1 raised 'lalkara' on which Harbhajan Singh petitioner No.2 gave a 'datar' blow on the person of complainant. Thereafter, Punjab Singh gave a 'datar' blow to the complainant. Gurlal Singh, son of petitioner No.1 also gave 'daang' blow on the person of complainant. Kuldip Singh petitioner No.1 has also been attributed iron rod blow on the head of the complainant. Kuldeep Singh

petitioner No.1 has also been attributed iron rod blow on the shoulder of complainant.

Learned counsel for the petitioners places reliance on opinion of the doctors Annexure P-2, in support of his contention that injury No.2 attributed to petitioner No.2 is merely a superficial cut and has wrongly been declared as grievous.

Notice to Advocate General, Punjab for 09.12.2016.

Meanwhile, an interim direction is issued that the petitioner No.1 will join investigation on 26.11.2016. In case of petitioner No.1 doing so, he will be released on interim bail to the satisfaction of the arresting officer.

Details of the injury attributed to petitioner No.2, be made available on the next date of hearing."

Subsequently, On 21.03.2017, interim concession was even extended to petitioner No.2 and in the following terms:-

"Petitioners herein seek concession of pre-arrest bail in case FIR No.156, dated 26.08.2015, under Sections 326/324/323/506/34 IPC, registered at Police Station Lopoke, Amritsar Rural, District Amritsar.

While issuing notice of motion on 18.11.2016, petitioner No.1 Kuldip Singh was granted interim protection. However, details of the injury attributed to petitioner No.2 were sought by this Court.

On 13.01.2017, counsel for the petitioners had referred to an opinion tendered by the Senior Resident, Department of Forensic Medicine and Toxicology, Government Medical College, Amritsar and submitted that injury No.2 on the person of the complainant attributed to petitioner No.2 was only a superficial cut.

Per contra, learned State counsel contended that as per X-ray report dated 12.08.2015, there was a bone cut injury.

Under such situation, directions were issued by this Court on 13.01.2017 for the State Government to elicit an opinion with regard to injury No.2 allegedly suffered by the complainant/injured from a senior Radiologist.

Even after two adjournments having been granted, learned State counsel would take a stand that inspite of an application having been moved, to the head of Radiology Department, Government Medical College, Amritsar for getting an opinion with regard to injury No.2 suffered by the

complainant, such application has not been entertained.

Under such peculiar circumstances, this Court is left with no other option but to extend ad interim protection as regards arrest even qua petitioner No.2.

List for further consideration on 25.05.2017.

In the meanwhile, petitioner No.2 is directed to appear before the Investigating Officer and to join investigation.

In the event of arrest, the petitioner No.2 shall be released on interim bail subject to satisfaction of the Arresting/Investigating Officer. Petitioner No.2 shall join investigation as and when called upon to do so and he shall remain bound by the conditions envisaged under Section 438(2) Cr.P.C.

It may be apposite to take note of the submissions made by learned State counsel upon instructions from ASI Savinder Pal that in pursuance to the notice of motion order dated 18.11.2016, petitioner No.1 has already joined investigation.”

Learned State counsel upon instructions from HC Sarwan Singh, apprises the Court that both the petitioners have since joined investigation.

Under such circumstances, custodial interrogation of the petitioners would not be warranted.

The prayer made in the present petition is accepted.

The orders dated 18.11.2016 and 21.03.2017, are made absolute.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

25.05.2017

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No