

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

CRM-M-16885-2017

Date of decision:- 10.1.2018

Rajbir and another

...Petitioners

Versus

Prabhu and another

...Respondents

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

Present: Mr. Sunil Panwar, Advocate with  
Mr.Dhananjay Singh, Advocate  
for the petitioners.

Mr.Sarfraj Hussain, Advocate  
for respondent No.1.

Mr.Neeraj Poswal, AAG, Haryana.

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**H.S. MADAAN, J.**

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioners - Rajbir and Dhanveer @ Dhanbir, both of them having been summoned as accused by the Court of learned Sub-Divisional Judicial Magistrate, Sohna vide order dated 15.2.2017 for the offences under Sections 323, 506, 429 IPC and Section 3 of Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989.

Briefly stated, the facts of the case as can be gathered from the allegations in the complaint are that complainant Prabhu had taken a pond on lease for a period of three years from Gram Panchayat village Dabalu @ Rs.35,500/- for the purpose of fisheries; that at that time Gyasi Ram – accused No.1 was Sarpanch of the village; that on 20.2.2010, Gyasi Ram – accused No.1 along with his sons, namely, Rajbir and Dhanveer went to the pond and started removing the fish therefrom forcibly; that when the complainant raised objection to that then those persons gave beatings to him; that on hearing the noise, Balram son of Mohar Pal and Satbir son of Giriraj came to the spot; that they intervened and rescued the complainant from the accused; that while leaving the spot, the accused threatened to kill the complainant; that the matter was reported to the police of Police Station Sohna on 20.2.2010 but to no effect; that similarly various representations moved by complainant to various authorities did not evoke any response; that on 4.4.2010, the accused mixed some poisonous substance in the pond, as a result of which all the fish died; that again police and the concerned authorities were informed but no action was taken; that on 30.1.2011, when the complainant sought assistance of fisherman to catch fish in the pond, accused stopped him and threatened to burn down his vehicle. Ultimately, the complainant filed a complaint in the Court of law. After recording of preliminary evidence, the accused have been summoned. They had moved an application in the Court of Sessions seeking grant of pre-arrest bail but his such application was dismissed by the Court learned Additional Sessions Judge, Gurugram vide order dated 2.5.2017. As such they have

approached this Court asking for similar relief.

Notice of the petition was issued to the respondents, who put in appearance through counsel.

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

The accused had been summoned in a private complaint. The main thing to be seen there is to ensure appearance of the accused there to face trial. The guilt of the accused would be determined during the trial. The detaining of accused during the trial period is not going to serve any useful purpose. It is a matter of evidence as to whether offence under Section 3 of Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 is disclosed against the accused or not. It is a case of the petitioners that the complainant wanted to usurp the Panchayat land and father of the petitioners in his capacity a Sarpanch of the Gram Panchayat had reported the matter to the police in that regard. The petitioners are shown to have appeared in the trial Court and released on interim bail. Therefore, the interim bail granted to the petitioners vide order dated 12.5.2017 is made absolute subject to their fulfilling conditions under Section 438(2) Cr.P.C.

The petition stands allowed accordingly.

10.1.2018  
Brij

**(H.S.MADAAN)**  
**JUDGE**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**