

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

CRM-M-25261-2018
Date of decision:06.08.2018

Smt. Kalla @ Kelawati and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Navdeep Singh, AAG, Haryana.

GURVINDER SINGH GILL, J. (ORAL)

The petitioners seek grant of anticipatory bail in respect of FIR No.103 dated 23.02.2018 under Sections 147, 149, 323, 452, 506 Indian Penal Code, 1860 and Section 3 of the Scheduled Castes and Scheduled Tribes (Preventions of Atrocities) Act, 1989 (added subsequently on the basis of supplementary statement), Police Station Sector-55, Faridabad, Haryana.

The FIR in the present case was lodged at the instance of Sunil Kumar on 23.02.2018 wherein it is alleged that on 17.02.2018 when

he was going to attend a '*Jagran*' in his neighbourhood, two employees of Kalla wife of Surender Halwai who were drunk pushed him and when he objected to the same he was given beatings. The complainant has alleged that after he came back home, Kalla wife of Surender Halwai, Surender and his son Yogendra alongwith 7/8 employees who were carrying sticks and rods came to his house and they forcibly entered into the house and gave beatings to them. When he raised alarm, his father came out and the said assailants ran while threatening them.

Notice of the petition was issued to the State.

Learned counsel for the petitioner has submitted that there is delay of about six days in lodging the FIR and that in fact even if the allegations as levelled in the FIR are taken to be correct the same at best would constitute an offence punishable under Sections 323 of Indian Penal Code, 1860 and that it was subsequently that improvements were made and a supplementary statement of the complainant was recorded pursuant to which offence under Section 3 of the Scheduled Castes and Scheduled Tribes (Preventions of Atrocities) Act, 1989 was added. Learned counsel for the petitioners has submitted that in fact the accused had also sustained injuries and since the police did not take any action, a complaint was filed in respect of the cross-version.

Learned State counsel has informed that although the petitioners have joined the investigation but they are not cooperating inasmuch as the weapons allegedly used have not been recovered.

Having considered the rival submissions and bearing in mind the nature of allegations, in my opinion, it is not a case where custodial

interrogation is warranted. The petition, as such, merits acceptance and is hereby accepted. The interim directions issued vide order dated 07.06.2018 are hereby made absolute subject to the condition that the petitioners shall however, make themselves available as and when directed by the Investigating Officer and would fully cooperate with the investigation.

**(GURVINDER SINGH GILL)
JUDGE**

06.08.2018
Gaurav Sorot

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**