

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

(1) **CRM-M-38115-2018**

Dalbir Singh

...Petitioner

Versus

State of Punjab

...Respondent

(2) **CRM-M-38847-2018**

Kashmir Singh

...Petitioner

Versus

State of Punjab

...Respondent

Date of decision:-4.10.2018

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

Present: Mr. A.S. Manaise, Advocate
for the petitioner(s).

Mr.Rakeshinder Singh Sidhu, AAG, Punjab.

H.S. MADAAN, J.

By this order, I intend to dispose of two petitions i.e. **CRM-M-38115-2018** filed by petitioner Dalbir Singh and **CRM-M-38847-2018** filed by petitioner Kashmir Singh, who are accused in FIR No.50 dated 29.7.2018, under Sections 354, 323, 506, 34 IPC, registered at Police Station Behrampur, District Gurdaspur for grant of regular bail.

Briefly stated, the facts of the case, as per the prosecution version are that criminal machinery in this case was set into motion by

complainant Amarjit Kaur, an Anganwari worker, whose husband is serving in BSF. She made statement to the police stating therein that her father-in-law has since expired and a dispute regarding use of common tubewell installed in the joint land had been there between them and their collaterals; the electricity connection is in the name of younger brother of his deceased father-in-law, namely, Joginder Singh; that on 28.7.2018 Kashmir Singh and Sukhwinder Singh were irrigating their fields forcibly and when the complainant and her elder sister-in-law (JETHANI) Sukhwinder Kaur tried to stop them from doing so, then on an *lalkara* (exhortation) being raised by Kashmir Singh, Kulwinder Kaur also arrived at the spot; that Sukhwinder Singh caught hold of the complainant with an intention to outrage her modesty asking Kulwinder Kaur to tear clothes of complainant, which she was wearing; that Kulwinder Kaur tore her shirt from the shoulder; that Sukhwinder Singh gave spade blow to complainant hitting her on left bicep; that when Sukhwinder Kaur came ahead, accused Sukhwinder Singh gave two spade blows to her hitting Sukhwinder Kaur on her back and left elbow, then Sukhwinder Singh gave another spade blow from reverse side hitting her on middle finger of left hand; that three *daang* blows given by Kashmir Singh hit Sukhwinder Kaur on her left palm, right thigh and left bicep; in the meanwhile Hardip Singh, husband of complainant arrived at the spot; he intervened and saved the complainant and Sukhwinder Kaur from accused.

On the basis of that statement, formal FIR was registered. Investigation in the case started. Accused Dalbir Singh and Kashmir Singh were arrested in this case on 8.8.2018. They had moved

applications for regular bail in the Court of Sessions, however, the same were dismissed by learned Additional Sessions Judge, Gurdaspur, as such they have approached this Court by way of filing these petitions asking for the similar relief, notice of which has been issued to the respondent – State, which put in appearance through counsel.

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

Learned counsel for the petitioners has submitted that the electric motor is in the name of Kashmir Singh (petitioner-accused) and a civil dispute in that regard has been pending between the parties; that the FIR has been lodged on wrong allegations as a pressure tactic; the injury found on the person of the two injured are simple in nature; that both the petitioners are aged persons inasmuch as Dalbir Singh is aged about 60 years, whereas Kashmir Singh is aged about 65 years; they are behind bars for about two months; that there is a counter version of the incident in which Kashmir Singh had also suffered injuries and one of the injury was grievous in nature but police did not take any action, therefore, concession of regular bail be granted to the petitioners.

Whereas, this request is being opposed by learned State counsel vehemently.

After hearing the rival contentions, I find that the injuries found on the person of two injured were simple in nature. The petitioners are old aged persons and they are behind bars for about two months. The guilt of the petitioners/accused shall be determined during the trial.

Petitioner Dalbir Singh was not named in the FIR originally and he was

nominated later on. The case is still at the stage of investigation, in that way completion of investigation, filing of challan and conclusion thereof is likely to take considerable time.

Under the circumstances, I find it proper and appropriate if concession of regular bail is granted to the petitioners.

Accordingly, the petitions are allowed. The petitioners namely Dalbir Singh and Kashmir Singh are ordered to be released on bail during the pendency of the trial, subject to their furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Gurdaspur, on following conditions:

- (i) that they shall appear in the Court on each and every date of hearing;
- (ii) that they shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) that they shall not leave India without prior permission of the Court.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioners do not abscond and interfere in the trial.

The petitioners-accused are also directed to surrender their passports if they have got ones otherwise to furnish affidavits in that regard. In case the petitioners violate any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail.

It is made clear that if the petitioners are found to be involved

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in any criminal act at any stage after being released on bail, the order granting them bail would be liable to be withdrawn.

The petitions stand allowed accordingly.

It is clarified here that nothing discussed above be taken as any opinion on the merits of the case.

4.10.2018
Brij

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No