

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

1. Criminal Misc. No.M- 42704 of 2017(O&M)
Date of Decision: February 22 , 2018.

Emanuel Masih PETITIONER(s)

Versus

State of Punjab RESPONDENT (s)

2. Criminal Misc. No. M- 43416 of 2017(O&M).

Yusuf Masih PETITIONER(s)

Versus

State of Punjab RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vaibhav Narang, Advocate
for the petitioners.

Ms. Seena Mand, DAG, Punjab.

Mr. Mohinder Kumar, Advocate
for the complainant.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This order shall dispose of CRM No.M-42704 of 2017 (Emanuel
Masih v. State of Punjab) and CRM No.M-43416 of 2017 (Yusuf Masih v.

State of Punjab).

Prayer in both these petitions is for grant of anticipatory bail to the petitioners in FIR No.91 dated 08.10.2017 under Sections 323/324/326/341/354/34 IPC, registered at Police Station Bhindi Saidan, District Police Amritsar Rural.

As per the allegations in the FIR, the complainant Joginder Singh son of Mukhtar Singh stated that he entered into an agreement to purchase a plot of about eight (8) Marlas with the petitioners – Emanuel Masih and Yusuf Masih as well as one Sukho wife of Sadik Masih for a sum of ₹5,00,000/- out of which ₹2,00,000/- were paid on 12.08.2016. The sale-deed could not be executed. Another sum of ₹50,000/- was paid. It is alleged that on 17.09.2017 at about 6.00 p.m., the complainant as well as his wife Jaswinder Kaur and one Joginder Singh son of Surta Singh went to the house of the petitioner-Yusuf Masih to ask him to execute the sale-deed of the plot in the complainant's favour. When they called out for them, the petitioner-Yusuf Masih retorted by saying that they should be taught a lesson for asking for double the money everyday. The complainant and others tried to escape however, the petitioners encircled the complainant's wife. The petitioner-Yusuf Masih is alleged to have given a Datar blow to the complainant's wife on which she received an injury on her right hand and part of the little and its adjoining finger were cut. Another injury attributed to the petitioner-Yusuf Masih is with the handle of the Datar on the right rib cage of the complainant's wife. One injury is attributed to the petitioner-Emanuel Masih with the reverse side of the Datar on her thigh. It is further stated that the

complainant's wife was dragged and her clothes were also torn. Injury, it is stated, was caused to the complainant as well. It is stated that the complainant's wife was admitted to the Civil Hospital, Lopoke and thereafter, to Shri Guru Nanak Dev Hospital, Amritsar. The present FIR was registered on 08.10.2017.

Learned counsel for the petitioners vehemently argues that the dispute between the parties is essentially a civil dispute and a colour of criminality is sought to be given thereto. There is an unexplained delay of 19 days in lodging of the FIR. The incident allegedly occurred on 17.09.2017 whereas, the FIR in question was lodged after a considerable delay on 08.10.2017. The injuries on the complainant's wife negate all allegations of her being dragged etc. by the petitioners. Moreover, the petitioners have joined investigation and they undertake to face the proceedings and not misuse the concession of anticipatory bail, if afforded to them. Therefore, it is prayed that these petitions be allowed.

Learned counsel for the complainant has opposed these petitions while submitting that grievous injuries were caused to the complainant's wife. Part of two of the fingers had to be amputated. The delay in the FIR is sought to be explained on the ground that the complainant's wife was admitted in the hospital from 17.09.2017 till 03.10.2017. However, it is not denied that she was conscious when she was admitted to the hospital. There is nothing on record to show that she was unfit to make a statement at that stage, though an attempt has been made to state that efforts were made to amicably resolve the matter.

Heard learned counsel for the parties.

Injury No.1 on the hand of the complainant's wife was declared to be

grievous due to a fracture of the middle phalanx/little finger. She was discharged from the hospital on 03.10.2017 and the present FIR was registered on 08.10.2017. Dispute regarding the plot is admitted.

Learned counsel for the State, on instructions from HC Kuldeep Singh, verifies that the petitioners have joined investigation and are not involved in any other criminal case.

There are no allegations on behalf of the State that the petitioners are likely to abscond or that they are likely to dissuade the witnesses from deposing true facts before the Court, if released on bail.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, both these petitions are allowed. In the event of arrest of the petitioners, they shall be released on bail to the satisfaction of the Arresting/Investigating Officer. Petitioners shall comply with the conditions stipulated in Section 438(2) Cr.P.C.

It is made clear that the petitioner shall not directly or indirectly try to contact the complainant, injured, any of her family members or witnesses in this case. Any such infraction on the part of the petitioners may entail cancellation of their bail.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petitions.

February 22 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No