

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

**CRM-M-46561-2018
Date of decision:31.10.2018**

Dalbir Singh and another

....Petitioners

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. K.B. Raheja, Advocate
for the petitioners.

Ms. Simranjeet Kaur, AAG, Punjab.

GURVINDER SINGH GILL, J. (ORAL)

The petitioners seek grant of anticipatory bail in respect of FIR No.38 dated 31.08.2018 under Sections 307, 341, 324, 323, 326, 148, 149 of Indian Penal Code, 1860 and Sections 25/27/54/59 of Arms Act, 1959, Police Station Arif Ke, District Ferozepur.

The aforesaid FIR was lodged at the instance of Nasib Singh wherein he has alleged that on the day of occurrence i.e. 28.08.2018 when he along with Hira Singh was returning back to the village on a motorcycle then a Jeep came from the rear side and hit against the motorcycle as a result of which the motorcycle fell on the ground. It is alleged that Sukhchain Singh was carrying a .12 bore double barrel gun and his son Harcharan Singh was armed with a rod who alighted from the jeep. In the meantime one Alto car came there from which Dalbir Singh

and his son Harvinder Singh armed with baseball bat, Jaswinder Singh armed with a rod along with two other unidentified persons alighted. Sukhchain Singh and Dalbir Singh petitioners are alleged to have raised '*Lalkara*' exhorting their companions to catch hold of the complainant. Thereafter Harcharan Singh is alleged to have given a blow with rod hitting the head of the complainant also gave another blow on his right leg. Gurcharan Singh is alleged to have given a blow with '*Datar*' on the right leg of the complainant. Harvinder Singh is alleged to have given three blows to the complainant on his right leg. Jaswinder Singh gave two consecutive blows with his rod on the left leg of the complainant with a baseball bat.

Learned counsel for the petitioners has submitted that even as per the FIR, the petitioners are not alleged to have been inflicted any injuries and are alleged to have raised '*Lalkara*' only. Learned counsel has submitted that in fact a concocted version has been put-forth in the FIR inasmuch the genesis of the occurrence has been suppressed and no explanation is forthcoming as regards the grievous injuries sustained by Sukhchain Singh himself. Learned counsel has drawn the attention of this Court to a MLR of Sukhchain Singh annexed as Annexure P-3 which depicts that Sukhchain Singh has received four injuries.

On the other hand learned State counsel opposed the application and stated that the complainant was found to have four grievous injuries out of total ten injuries sustained by him.

Having considered rival submissions addressed before this Court, it would be certainly debatable as to which of the party was

aggressor especially since grievous injuries sustained by petitioner No.2-Sukhchain Singh are not being explained. In my opinion, it is not a case where custodial interrogation is warranted. The petition as such, is accepted. In the event of arrest of the petitioners, they shall be released on bail subject to their furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

The petition is accepted in the above mentioned terms.

It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

31.10.2018
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

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

Whether reportable? **Yes / No**