

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 47464 of 2017 (O&M)

Date of decision : 7.2.2018

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Gurdeep Singh and another

.....Petitioners

vs.

State of Punjab and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Rishu Garg, Advocate for the petitioners.

Mr. Ramandeep Sandhu, Senior Deputy Advocate General,
Punjab.

Mr. Munish Garg, Advocate for the complainant.

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H. S. Madaan, J. (Oral)

This application for pre-arrest bail has been filed by Gurdeep Singh and Jasvir Kaur, both of them having been summoned as accused in complaint case titled as Nasib Kaur vs. Gurdeep Singh etc. under Section 3 (1) and (x) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred to as 'the SC&ST Act'), as well as Sections 323, 324, 120-B, 506 IPC, Police Station Sadar Barnala, District Barnala, in the Court of additional Chief Judicial Magistrate, Barnala.

As per allegations in the complaint filed by Nasib Kaur against Gurdeep Singh s/o Harbans Singh, Jasvir Kaur w/o Harbans

Singh as well as Labh Kaur w/o Jarnail Singh, complainant belong to Majbhi Sikh community, which has been declared as Scheduled Caste by the Punjab Government, whereas all the three accused belong to Jat Sikh community. Both the parties have got residences in the same Mohalla. On 3.10.2016, at about 10.00 A.M. While the complainant was going to market to purchase household articles, then three accused intercepted her and started abusing her, calling her "kuti churi, chamiaari" and threatened to teach her a lesson. The complainant was insulted by passing casteist remarks and accused had threatened to kill her. Labh Kaur had given slaps and punch on the face of complainant. Meanwhile, Karnail Singh s/o Kartar Singh and her husband Billu Singh reached the spot. The accused again passed casteist remarks in their presence and gave slaps and punches to the complainant. On the intervention of Billu Singh and Karnail Singh, the accused left the spot giving threats. According to the complainant, the police was informed but no action was taken. Therefore, she brought the complaint in the Court. The motive for the incident as mentioned in the complaint dated 9.1.2017 is that about 1 ½ years earlier, the complainant had solemnized marriage of person Harpreet Singh with Amandeep Kaur d/o Darshan Singh, r/o Fateh Nagar, Raikot Raod, Barnala. The parents of the girl and people of the locality were not happy with the marriage. The accused were also unhappy and they had trespassed in the house of the complainant and given injuries to her. They had been giving threats that complainant by solemnizing the marriage of her said son had spoiled

the atmosphere of the area. After recording of the preliminary evidence, the accused were summoned. They had moved an application for pre-arrest bail before the Court of Sessions, but the application was dismissed, as such they have approached this Court.

The petitioners were granted interim bail with a direction to appear in the trial Court and they have accordingly put in appearance. Learned counsel for the petitioners states that interim bail granted to the petitioners be made absolute, whereas, this request is being opposed by the learned counsel for the complainant vehemently.

Learned counsel for the petitioners has stated that the complainant has filed a wrong complaint against them and earlier to that she had lodged FIR No. 34 dated 30.1.2016 at Police Station City Barnala.

Further more, the petitioners had not passed any casteist remarks, therefore, no offence under Section 3 (1) and (x) of the SC&ST Act is made out, whereas learned counsel appearing for the complainant submits that the date of incident in the FIR and the complaint are different. All the ingredients of offence under Section 3 (1) and (x) of the SC&ST Act are made out and in view of bar of Section 18 of the said Act, pre arrest bail be not granted to the petitioners.

However, after hearing the rival contentions in the given facts and circumstances of the case, I find that only during trial it can be determined as to whether offence under Section 3 (1) and (x) of the SC&ST Act is made out against the accused or not. The

petitioners have been summoned in a complaint case, where the main thing is to ensure the presence of the accused and further since the petitioners have put in appearance in the Court and have been granted interim bail, it would be proper and appropriate to confirm the interim bail so granted to the petitioners.

Therefore, the petition is accepted.

The interim bail granted to the petitioners vide order dated 13.12.2017 is made absolute, subject to fulfillment of conditions envisaged under Section 438(2) Cr.P.C.

The petition in that way is allowed.

It is made clear, that in case the petitioners are found to be indulging in any criminal activity, after being granted bail vide this order, the order shall be liable to be withdrawn.

7.2.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No