

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

CRM No. M-48073 of 2017 (O&M)

Date of Decision: 29.01.2018

Sukhwinder Singh and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. R.S.Cheema, Senior Advocate with
Mr. Kartik Tayal, Advocate,
for the petitioners.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Diwan S. Adhlakha, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA, J.(ORAL)

Petitioners seek benefit of regular bail pending trial in case FIR No.209 dated 27.10.2017, under Sections 307, 34 IPC and 27-54-59 of Arms Act, registered at Police Station Chhappar, District Yamuna Nagar.

Counsel for the parties have been heard.

FIR came to be registered on the statement of Ramesh Kumar @ Deepak in relation to an alleged occurrence dated 27.10.2017. Complainant stated that in the year 2013 earnest money towards sale of 5 killas of land amounting to Rs.50 lacs had been taken from petitioner No.1 but thereafter he was delaying registration of the sale deed on one pretext or the other and used to threaten the complainant party.

It is alleged that on 27.10.2017 at about 2 p.m. both the petitioners along with one Surinder Singh had come in their vehicle make Toyota Fortuner outside the residence of the complainant and started hurling abuses. The accused having been dissuaded from doing so, the accused tried to flee away after hitting motorcycle of the complainant from behind. Further alleged that the complainant along with his younger brother, namely, Lalit chased them and an altercation took place between the parties in front of Gurudwara in Main Bazar, Police Station Chhappar. Precise allegations are that during last altercation petitioner No.1 took out a pistol and fired shots and one of which hit Lalit i.e. brother of the complainant chest below the left shoulder and a second shot hit Lalit on the foot. Lalit is stated to have fallen down on the road and in the meantime the accused party escaped from the spot on their vehicle.

Learned Senior counsel would contend that there has been a suppression of material facts as regards of the occurrence. It is submitted that it was the complainant and his brother Lalit who had blocked the path of the vehicle in which the petitioners were proceeding and had threatened them to slide down the windowpanes and had even used indiscriminate blows with rods on the screen and windowpanes of the car. It was in such a situation and whereupon apprehending danger to his life that petitioner No.1 had fired shots to scare away the complainant party. Plea of private and self defence has been raised. Further contended that the entire occurrence was captured on CCTV

which was installed in a nearby shop and which would reflect that it was the complainant party who were the aggressors. A cross-version i.e. DDR No.11 dated 29.11.2017 (Annexure P-3) also stands recorded and the same has been done after due verification by the police authorities.

It has been contended that the chain of events put forth by the complainant party leading to the registration of the FIR is not probable. As per complainant's version, the firing is stated to have taken place in front of a Gurudwara main street, Police Station Chhappar and which is stated to be at a distance of almost 1 km away from the residence of the complainant party. Complainants have even alleged that abusive language was employed by petitioner No.1 outside the residence of the complainant and thereafter they had been chased. Complainant's version does not explain how and in what manner the present petitioners were chased over such a long distance and to the spot where the firing actually took place.

A question has also been raised as regards the motive. As per complainant, a huge sum of Rs.50 lacs had been given by petitioner No.1 to the complainant party and the registration of the sale deed was not being done. Under such circumstances, it was always open for the complainant to have forfeited the earnest money. That apart resort to civil remedies in accordance with law i.e. instituting a suit for specific performance could have been made, but the same has not been done.

Investigation in the case is complete and the challan

already stands presented.

Petitioners have faced incarceration for a period in excess of 03 months.

Court has been informed that injured Lalit was hospitalized for a period of almost one week and was discharged on 04.11.2017 from PGI.

State counsel submits that in the cross-case i.e. DDR No.11, dated 29.11.2017, the complainant party herein has not joined investigation and is evading arrest.

In view of the above and against the backdrop of the submissions advanced and noticed hereinabove, petitioners are held entitled to the benefit of bail.

Petition is allowed. Petitioners be enlarged on bail subject to satisfaction of the trial Court/Duty Magistrate, Yamuna Nagar.

It is clarified that the observations contained in this order are confined only as regards considering the prayer of the petitioners for grant of bail and would have no bearing on the merits of the case.

Disposed of.

29.01.2018

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**

Whether speaking/reasoned

Yes

Whether Reportable

No