

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

CRM-M-16449-2019 (O&M)

Date of decision: 17.05.2019

Amrik Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Parvinder Singh, Advocate
for the applicants-petitioners.

Mr. Sidakmeet Sandhu, DAG, Punjab.

Mr. K. S. Dadwal, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-16400-2019

Allowed as prayed for.

Documents are taken on record.

CRM-M-16449-2019

The petitioners pray for grant of anticipatory bail in FIR No. 54 dated 22.05.2018 registered under Sections 341, 323, 324, 307, 148, 149 and 120-B IPC at Police Station Sadar Nawanshahar, District S.B.S. Nagar.

The operative part of the order dated 30.04.2019, vide which the petitioners have been granted interim bail, is reproduced below:

“Counsel for the petitioners has submitted that both the petitioners are Ex-Sarpanches of the village and are aged about 70 and 65 years. It is further submitted that, in fact, there is a long standing litigation between the 02 rival groups of the village, one who want to protect the charand land of the village in favour of the Panchayat and the

complainant side had filed a civil suit, which was dismissed upto this Court holding that the land which is the bone contention of the dispute between the parties is a charand land. Counsel for the petitioners has further submitted that the two subsequent suits, which are pending, one filed by the complainant side, in which the application under Order 39 Rules 1 and 2 CPC is dismissed and in the second suit, which was filed by the petitioners for protecting the possession of the charand land in favour of the Gram Panchayat from unauthorized possession, the Civil Court has granted status quo in their favour. Counsel for the petitioners has, thus, submitted that on account of the litigation over the charand land where the petitioners being Ex-Sarpanches are trying to protect the property, they have been wrongly named in the FIR. Counsel for the complainant has argued that the complainant – Tara Singh was the defendant in the suit, which was dismissed on 03.08.2006 and after the dismissal of the first appeal by the First Appellate Court in the said suit, even RSA No.1054 of 2008 was dismissed by this Court on 20.01.2014, finding that it is a gair mumkin charand land and therefore, the complainant has no concern with the same. Counsel for the State, on instructions from ASI Kulwinder Singh, submits that since the petitioners are named in the FIR, they may be directed to join the investigation and appear before the the Investigating Officer. Adjourned to 17.05.2019.”

Learned counsel for the petitioners submits that the petitioners, in pursuance to the order dated 30.04.2019, have already appeared before the SHO/Investigating Officer and have joined the investigation.

Learned counsel for the petitioners has relied upon inquiry report dated 27.02.2019, conducted by DSP, Sub Division Nawanshahar, to

submit that the petitioners, who are aged about 62 and 67 years, were not found present at the spot.

In reply, learned State counsel has not disputed the factual position that the petitioners have joined investigation, however, learned counsel for the complainant has raised objection that in the same inquiry report, it has come that the petitioners are in unauthorized possession of the land.

Learned counsel for the complainant has further referred to the observations made in the aforesaid inquiry report to submit that petitioner Harbans Singh is in possession of one acre of land and other co-accused Harwinder Singh Khalsa is in possession of four Kanals of land and petitioner Amrik Singh is helping them in protecting the possession over the land in dispute and Ravinder Singh @ Sodhi was cultivating the said land. Learned counsel for the complainant, thus, has argued that in fact it is the petitioners who are the aggressors and have caused injuries.

Without commenting anything on the merits of the case, considering the fact that the petitioners are old aged persons and primarily in the inquiry report of the DSP, they were not found present at the spot and the parties are litigating before the Civil Court over the possession of the land and the dispute is to be decided by the Civil Court that who is in legal possession of the land, this petition is allowed and the interim bail granted to the petitioners, vide order dated 30.04.2019, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

17.05.2019

Waseem Ansari

*Whether speaking/reasoned
Whether reportable*

(ARVIND SINGH SANGWAN)

JUDGE

*Yes/No
Yes/No*