

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

CRM-M-20861-2019 (O&M)

Date of decision: 17.05.2019

Harwinder Singh Khalsa @ Khalsa @ Harminder Singh
...Petitioners

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Parvinder Singh, Advocate
for the applicant-petitioner.

Mr. Sidakmeet Sandhu, DAG, Punjab.

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

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of regular bail in FIR No. 54 dated 22.05.2018 registered under Sections 341, 323, 324, 307, 148, 149 and 120-B IPC (Section 325 IPC added later on) at Police Station Sadar Nawanshahar, District S.B.S. Nagar.

Learned counsel for the petitioner has relied upon the order of the even date passed in CRM-M-16449-2019, vide which, co-accused Amrik Singh and Harbans Singh have been granted concession of anticipatory bail by this Court, which reads as under:

“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.”

Learned counsel for the petitioner has additionally argued that there is a serious dispute about the possession of the land and it is yet to be decided that who was the aggressor.

Learned State counsel, on instructions from the Investigating Officer, assisted by learned counsel for the complainant, has, however, opposed the prayer of the petitioner.

Learned State counsel has argued that as per the allegations in the FIR, the petitioner has caused injuries to the complainant with a sword blow on his both legs and the complainant has suffered grievous injuries and he is the main accused.

Learned State counsel has also argued that the case is still

the stage of investigation as some other co-accused are yet to be arrested.

Learned counsel for the complainant has shown photographs of the complainant/victim to argue that both the legs and one arm of the complainant were fractured and he remained admitted in PGIMER, Chandigarh for a long time as victims Rajnish Kumar and Mangat Rai collectively got serious injuries on their heads and other parts of the body in which the petitioner has actively participated.

Learned counsel for the complainant has further argued that all the accused, in conspiracy with each other and with common intention, has caused multiple injuries on the complainant with the sharp edged weapons like Kirpan and swords.

Learned counsel for the complainant has referred to the MLR of aforesaid persons to submit that the injuries attributed to the petitioner are duly reflected in the MLR.

After hearing learned counsel for the parties, considering the serious allegations against the petitioner in the FIR, which are supported by the medical evidence i.e. MLR of the complainant, I find no ground to grant regular bail to the petitioner at this stage.

Accordingly, this petition is hereby dismissed.

17.05.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No