

(1)

~~CRM-M-49884-2018~~

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

CRM-M-49884-2018

Date of decision:25.02.2019

Harcharan Singh and others

....Petitioners

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

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

M. R.S. Thind, DAG, Punjab.

GURVINDER SINGH GILL, J. (ORAL)

1. 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 the Indian Penal Code and Sections 25/27 of Arms Act, Police Station Arif Ke, Ferozepur.
2. 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 and 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

3. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in the present case and in fact that Sukhchain Singh one of the co-accused (non-applicant) had also sustained injuries regarding which no explanation is forthcoming in the FIR. Learned counsel in this context has drawn the attention of this Court to a copy of MLR annexed with the petition as Annexure P-3, which reveals that Sukhchain Singh sustained three injuries including incised wound on his forearm. Learned counsel has further submitted that injury No.1 has been declared as grievous in nature. It has further been submitted that the petitioners in any case deserve the concession of anticipatory bail on the ground of parity as this Court vide order dated 31.10.2018 had already granted anticipatory bail to the co-accused Dalbir Singh and Sukhchain Singh.
4. Opposing the petition, the learned State counsel has submitted that

in the present case, Nasib Singh has sustained as many as ten injuries including grievous injuries and that in these circumstances no case is made out for grant of anticipatory bail to the petitioners. It has further been submitted that the petitioners cannot claim parity with the co-accused who have been granted bail as they had not caused any injury.

5. Having considered rival contentions addressed before this Court, it would certainly be debatable as to which of the party is aggressor as one person from each of the side has sustained injuries including grievous injury. Pursuant to interim directions issued on 15.11.2018, the petitioners have already joined investigation as has been informed by learned State counsel upon instructions from ASI Sukhdeep Singh. Accordingly the petition is accepted and the interim directions issued vide dated 15.11.2018 by this Court are hereby made absolute subject to the condition that the petitioners would appear before Investigating Officer 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.
6. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

(GURVINDER SINGH GILL)
JUDGE

25.02.2019
Gaurav Sorot

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No