

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : November 02, 2019

1. Criminal Misc. No. M-40595 of 2019 (O&M)

Sukhwinder Kaur @ Sawinder KaurPetitioner

versus

State of PunjabRespondent

2. Criminal Misc. No. M-42198 of 2019 (O&M)

Balwinder KaurPetitioner

versus

State of PunjabRespondent

3. Criminal Misc. No. M-42224 of 2019 (O&M)

Kiranpreet KaurPetitioner

versus

State of PunjabRespondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Vikram Chaudhary, Senior Advocate with
Mr. Rahil Mahajan, Advocate, for the petitioners

Ms. Sakshi Bakshi, AAG, Punjab for the State

Ms. Satwant Mehta, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

CRM-30714-2019 IN CRM-M-40595-2019

Since the present application is filed in compliance with orders dated 23.9.2019, the same is allowed. Supplementary bail application is taken on record.

CRM-32453-2019 IN CRM-M-40595-2019

Learned counsel for the petitioner has made statement that he wishes to withdraw the present application for interim bail. Allowed to do so.

The application is dismissed as withdrawn.

CRM-M-40595-2019; CRM-M-42198-2019 & CRM-M-42224-2019

The aforesaid three anticipatory bail applications, one by Sukhwinder Kaur alias Sawinder Kaur; second by Balwinder Kaur and third by Kiranpreet Kaur having arisen in the same very FIR bearing No. 104 dated 25.6.2019 initially registered under Sections 341, 354, 323, 34 IPC and thereafter vide DDR No. 37 dated 26.6.2019, offences under Sections 376-D, 506, 324, 382, 148, 149 IPC and Sections 25, 27, 54, 59 of Arms Act, 1959 were added and thereafter, after the investigation Sections 376-D, 382, 363 IPC were deleted, Police Station Sadar Tarn Taran.

The brief facts enumerated before this Court are that the

present case was got registered on the written complaint dated 24.6.2019 by one Sawinder Singh. In his complaint, the complainant alleges that on 23.6.2019 around 10.30 AM while his wife along with her two minor children were present at their home Gurmeet Singh, Raj Karan Singh, Kesar Singh, Jarnail Singh, Balbir Singh, Judge Timmowal, Tarsem Singh, Harpinder Kaur, Malkit Singh, Ravi and petitioners Balwinder Kaur, Savinder Kaur and Kiranpreet Kaur accompanied by 5/7 unidentified persons trespassed into his house and forcibly abducted his wife and son Simarpreet Singh in a Duster Car. It is further alleged that the accused snatched the mobile phone, ear rings and chain of his wife and gave her beatings and alleged that six persons out of them while moving in the vehicle had repeatedly raped his wife. It is on the basis of this report, the present case was got registered. However, during the course of investigations, offences under Sections 376-D, 382, 363 IPC were deleted and offences under Sections 354, 341, 323, 324, 506, 148, 149 IPC and Sections 25, 27, 54, 59 of Arms Act were slapped.

Mr. Vikram Chaudhary, learned senior counsel for the petitioners inter-alia contends that it was purely a land dispute between the parties and as one upmanship the present accused have been falsely implicated and has submitted that the complainant side is in the habit of making such wild allegations against all and

sundry and has detailed FIR No. 31 dated 19.2.2014, under Section 354 IPC, Police Station City, Tarn Taran; FIR No. 161 dated 25.10.2016, under Sections 324, 323, 354, 506, 148 IPC, Police Station Tarn Taran and FIR No. 265 dated 24.10.2018, under Sections 354-A, 452 IPC, Police Station Sadar Tam Taran and other complaints filed against different persons. Rather it is argued that it is the petitioners-accused side which too in the scuffle over the land dispute had received injuries in which a cross version has not been registered as the police is siding with the other party.

Ms. Sakshi Bakshi, AAG, Punjab assisted by ASI Balbir Singh have opposed the grant of bail on the grounds that in view of the allegations, custodial interrogation of the petitioners is very much essential.

Ms. Satwant Mehta, learned counsel for the complainant has sought to highlight that the police has not acted in justified manner and has sought to help the accused-petitioners.

Appreciating the submissions of the two sides, petitioners are married ladies and as has been highlighted before this Court which is conceded to at the bar even by the learned State counsel that the accused and the complainant are from the same very family and who have been implicated admittedly over a land dispute between the two real brothers Prem Singh and Kashmir

Singh and Prem Singh had sold 6 kanals and 13 marlas to one of the accused Gurmeet Singh that keeps the Court on its guard. The fact as has come up that on the basis of inquiry offences under Sections 376-D, 382, 363 IPC have been removed together with the fact that nothing by way of medical proof could be highlighted by the State/complainant side to corroborate the allegations of gang rape as well as physical abuse by the accused and rather the medical opinion refutes this fact. Being ladies and the fact that the parties have a land dispute between them and it would be traversity of justice if the petitioners are sent behind the bars and culpability, if any, would be determined at the trial.

In view of the aforesaid, all the three petitions are allowed. In the event of arrest, the petitioners shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioners shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan, the petitioners will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

All the present petitions stand disposed of.

The observations made herein above shall have no

bearing on the merits of the case as these are purely for the disposal of the present bail applications.

November 02, 2019
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(Fateh Deep Singh)
Judge

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>