

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-5475-2020 (O&M)
Date of Decision:- 17.2.2020

Karamjit Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Deepak Gupta, Advocate, for the petitioner.

Ms. Rashmi Attri, AAG, Punjab,
assisted by ASI Tej Singh.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of FIR No.06, dated 19.1.2020, Police Station Sadar Faridkot, District Faridkot, under Sections 341, 323, 365, 379, 149 IPC and Sections 3 and 4 of SC & ST Act.
2. Mr. Jaspreet Singh Brar, Advocate has appeared on behalf of the complainant and filed power of attorney. The same is taken on record.
3. The FIR was lodged at the instance of Dina Singh wherein it has been alleged that his wife Parminder Kaur is the present Sarpanch of the village and that he helps her in the development works being carried out in the village. It is stated therein that a Government park was being developed and the Government was constructing a boundary

wall and that on 19.1.2020 when he along with Jagjit Singh, Jagroop Singh, Jaskaran Singh “*Nambardar*” and Jagga Singh Member were levelling the soil in that park, then at about 5.30 pm, Jaspreet Singh, Kewal Singh, Naib Singh, Karamjeet Singh, Naib Singh s/o Fangan Singh, Sona Singh, Dr. Gurvinder Singh, Sikandar Singh, Vipran Singh, Daljit Singh, Simran Singh, Sikandar Singh and Gurdeep Singh, forcibly started digging a pit for disposal of water to which they objected. It is alleged that when they were returning back to their house then Kewal Singh and Jaspreet Singh @ Jassu came in front of the tractor and pulled him down from the tractor and gave beatings to him and took him to the house of Kewal Singh where they grabbed his mobile phone.

4. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that in any case even if the allegations as levelled in the FIR are taken to be correct, no offence under Section 3 and 4 of SC/ST Act can be said to be made out. The learned counsel for the petitioner placed reliance upon Union of India Vs. State of Maharashtra and others 2019(4) RCR (Criminal) 828 and Prathvi Raj Chauhan Vs. Union of India and others Writ Petition (C) No.1015 of 2018, SC to contend that where the Court is *prima facie* of the view that offence under Section 3 or 4 of SC/ST Act is not made out, then the Court in exercise of its powers under Section 482 Cr.P.C. can order for release of the accused on anticipatory bail.

5. Opposing the petition, learned State counsel, assisted by learned counsel for the complainant has submitted that since it is a case where the accused are residents of the same village and apparently knew about the caste of the complainant, they cannot feign ignorance about the said fact and in these circumstances an offence under Section 3/4 of SC/ST Act is clearly made out. Learned State counsel has further informed that the complainant was medico legally examined and was found to have sustained 4 injuries in the nature of contusions on his back and left arm and complaints of pain in his legs.
6. I have considered rival submissions addressed before this Court. It is noteworthy that it is a case where 4 members from the accused party has also sustained injuries and who were also got medico legally examined immediately after the occurrence i.e. on 19.1.2020 at about 10 pm. A perusal of the MLRs (Annexure P-1) in respect of Gurpreet Singh, Naib Singh, Kiranjit Kaur and Sukhpreet Kaur would show that all of them had sustained injuries including incised wounds on various parts of their body. In fact Gurdeep Singh had sustained as many as 6 injuries. The complainant on the other hand was examined after the members of the accused party had been examined and was examined in the early hours of 20.1.2020.
7. At this stage, it will be difficult to impute knowledge to the accused that they were aware about the caste of the complainant, in the absence of any clinching evidence to this effect. In these circumstances this Court is of the opinion that it will certainly be

debatable as to whether any offence under Section 3/4 of SC/ST Act is made out or as to which of the party is aggressor since the members of accused party has sustained more injuries. The petition, as such, is allowed and the petitioner, in the event of arrest shall be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

February 17, 2020

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No