

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

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CRM-M No.19037 of 2020

DATE OF DECISION : 27th JULY, 2020

Mohan Singh & others

.... Petitioners

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present: Mr. S. S. Dinarpur, Advocate for the petitioners.

Mr. Rakeshinder Sidhu, AAG, Punjab.

Mr. Raghav Sharma, Advocate for the complainant.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioners under Section 438 Cr.P.C for grant of anticipatory/pre-arrest bail in case FIR No.141 dated 30.07.2020 registered under Sections 148, 149, 323, 325, 452 & 506 IPC read with Section 3 of the SC & ST Act, 1989, at Police Station Ismailabad, District Kurukshetra.

It is contended by counsel for the petitioners that the case against the petitioners is totally concocted. No specific allegations/injuries have been attributed to the petitioners. The allegations are general in nature to rope in as many people as the complainant/police could do. In the same process, the names of the petitioners have been roped in. Still further it is submitted by the counsel for the petitioners that the complainant has concocted the version to

avoid the consequences of another complaint against him, which the side of the petitioners made against him for having damaged the car of brother of petitioner No.1. It is further submitted by the counsel for the petitioners that, in fact, the petitioners were not even present at the scene of occurrence. The occurrence is alleged at the godown of Prem Singh Malik. There was a CCTV camera installed at the godown. Since the petitioners were not present at the scene of occurrence, therefore, it was requested that the CCTV footage be produced before the court. However, the police manipulated the statement of Prem Singh Malik; saying that no CCTV camera was installed in this premises or nearby location.

As response to this, the counsel for the petitioners has submitted that he has placed on record another affidavit sworn in by the Namberdar of the village, which specifically say that there was CCTV camera installed at the place on the date of occurrence, i.e., on 03.07.2020 but the same was not present on 23.07.2020. Hence, the counsel for the petitioners submits that since the hearing of this was fixed before this court for 23.07.2020, therefore, just to make a false statement before this court, the police officer had got the said cameras removed from the place. It is also submitted that there is no other case against the petitioners.

On the other hand, the counsel for the State, being instructed by DSP Gurmail Singh, has submitted that he has been instructed to say that there was no CCTV camera installed at the place of occurrence. Still further it is submitted that there are injuries caused to the complainant, including the fractures on right forearm and the leg. However, the police have not produced any medical opinion to this effect before this court.

The counsel for the complainant has submitted that since the petitioners were very much present along with other persons and caused injuries, including the fractures, therefore, they do not deserve any concession of anticipatory bail. It is further submitted that since Section 3 of the SC & ST Act is also invoked in the case, therefore, the grant of anticipatory bail to the accused is barred by Section 18 of the SC & ST Act. It is also submitted by the counsel for the complainant that the version given by the petitioners; that they were not present at the spot; is not supported by any document.

As response to the above arguments of both the above said counsels, the counsel for the petitioners has submitted that so far as the injuries are concerned, Section 325 IPC has been invoked against the petitioners on that count. Offence under Section 325 IPC is bailable. Hence, the petitioners deserve to be granted protection against their arrest. So far as the offence under the SC & ST Act, is concerned, it is submitted by the counsel for the petitioners that there are not even allegations spelled out in the FIR, sufficient to invoke the offence under Section 3 of the SC & ST Act.

Having considered the respective arguments, this court finds substance in the arguments of the counsel for the petitioners that no specific injury is attributed to the petitioners, as such. Moreover, the offence which has been alleged against the petitioners on account of alleged injuries, is a bailable offence. Insofar as the allegations qua invoking SC & ST Act, are concerned, the bare perusal of the FIR shows that the offence under this provision is not prima facie attracted. Although the FIR says that the caste indicative words were spoken, however, neither any words as such have been mentioned nor is there any

allegation that the same were uttered with intention to humiliate the complainant.

In view of the above, but without commenting anything on merits of the case, the present petition is allowed. In the event of arrest, the petitioners be released on bail subject to their furnishing personal bonds/surety to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

27th JULY, 2020
‘raj’

(RAJBIR SEHRAWAT)
JUDGE

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