

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

1. **CRM-M-44704-2019 (O&M)**

TEK SINGH ... Petitioner

Versus

STATE OF PUNJAB ... Respondent

2. **CRM-M-43566-2019 (O&M)**

LAKHVIR KAUR @ NASIB KAUR & ANOTHER ... Petitioners

Versus

STATE OF PUNJAB ...Respondent

3. **CRM-M-44724-2019 (O&M)**

SARWAN SINGH ... Petitioner

Versus

STATE OF PUNJAB ...Respondent

Date of Decision : 17.2.2020

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. P.S.Mirpur, Advocate for the petitioner(s).

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

GURVINDER SINGH GILL, J.

1. This order shall dispose of the above mentioned three petitions filed on behalf of Tek Singh, Lakhvir Kaur @ Nasib Kaur, Jasvir Kaur and Sarwan

Singh seeking grant of anticipatory bail in a case registered against them vide FIR No.146 dated 28.5.2019 under Sections 324/323/148/149 IPC (Sections 325 & 308 IPC added later on vide DDR No.29 dated 9.9.2019) registered at Police Station Talwandi Sabo, District Bathinda.

2. The FIR in question was lodged at the instance of Baltej Singh wherein it has been alleged that on 11.5.2019 when he along with his son Raj Karan Singh @ Kala was irrigating his fields, then complainant's elder son Rajwinder Singh accompanied by Sarwan Singh, Balkar Singh, Nasib Kaur @ Lakhvir Kaur and Jasveer Kaur, Tek Singh, Gurcharan Singh and one unknown person came there and caused injuries to the complainant and to his son Raj Karan Singh. It is alleged that Rajwinder Singh gave a blow with 'Gandasi' on the left leg of the complainant. Sarwan Singh is stated to have given a blow with axe hitting the complainant's head. Balkar Singh is alleged to have given a 'Daang' blow on the complainant's left ear and also on his back. When the complainant's son Raj Karan Singh @ Kala tried to rescue him then he was also caused injuries by accused with axe, 'gandasi' and sticks.
3. Learned counsel for the petitioners submits that it is basically a case of dispute over land among members of the same family pertaining to possession of property and that the accused include the wife, son and daughter-in-law of the complainant and that the petitioners have falsely been implicated. It has further been submitted that even if the allegations levelled in the FIR are taken as correct, still no offence under Section 308 IPC can be

said to be made out, which has infact been added by police at subsequent stage after 4 months of lodging of the FIR.

4. Opposing the petition, learned State counsel has submitted that since the petitioners have caused injuries to complainant including an injury on the left leg of complainant caused with the help of '*Gandasi*' which has been opined as 'grievous' injury, no special case for grant of anticipatory bail is made out.
5. Learned State counsel has further submitted that the other injured namely Raj Karan Singh also sustained six injuries out of which one injury on his foot has been declared grievous injury.
6. I have considered rival submissions addressed before this Court. It is not in dispute that while the complainant Baltej Singh sustained 5 injuries out of which one injury on his left leg is opined to be grievous injury, the other injured i.e. Raj Karan Singh has sustained six injuries out of which one injury on his foot has been declared as grievous injury. Thus none of the grievous injury is on vital part of body.
7. As far as the role attributed to the petitioners is concerned, two of the petitioners are ladies who are not attributed any specific injury. Even the petitioner Tek Singh is also not attributed any specific injury. As regards petitioner Sarwan Singh, he is alleged to have given a blow with an axe hitting the complainant's head. However, a perusal of the his MLR does not reflect any injury on his head out of the 5 injuries mentioned therein. Further out of the said 5 injuries none of the injuries is an incised wound although

two of the said injuries i.e. injury no. 1 and 2 are stated to be in the nature of lacerations on left leg wherein bleeding was also found present.

8. It will not be out of place to mention that one of the accused namely Rajvinder Singh(non-applicant but on regular bail) also sustained 3 simple injuries on his person including a lacerated wound above his right eyebrow wherein bleeding was also found to be present.
9. Keeping in view the fact that three of the petitioners namely Tek Singh, Lakhvir Kaur and Jasvir Kaur are not even attributed any specific injury and that the injury alleged to have been caused by petitioner Sarwan Singh with an axe on head of complainant is not reflected in MLR of complainant Baltej Singh, it would be debatable as to whether an offence under section 308 IPC can be said to be made out.
10. In view of the aforesaid facts and circumstances and the fact that petitioners have joined investigation, this Court is of the opinion that custodial interrogation is not warranted. Accordingly, all the three petitions are accepted and the interim directions issued by this Court vide order dated 11.10.2019 in respect of Lakhvir Kaur @ Nasib Kaur & Jasvir Kaur, order dated 19.10.2019 in respect of Tek Singh and order dated 14.11.2019 in respect of Sarwan Singh are hereby made absolute subject to the condition that the petitioners shall continue to appear before the Investigating Officer as and when called upon to do so and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

11. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

17.2.2020

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No