

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2654-2020
Date of decision :10.08.2021

1. Iqbaldeep Singh & another ... Petitioners
Versus
State of Punjab ...Respondent

CRM-M-46048-2019
2. Kamaljit Singh & another ... Petitioners
Versus
State of Punjab ...Respondent

CRM-M-46198-2019
3. Gursimaran Singh @ Gaggi & Others ... Petitioners
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Lakhwinder Singh Mann, Advocate for the petitioners.
(In all the petitions).

Mr. Saurav Khurana, Deputy Advocate General, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Three different petitions filed by 7 persons under Section 438 Cr.P.C for anticipatory bail are being disposed of by this common order as the same arise from the same FIR/incident. Petitioners namely, Iqbaldeep Singh and Manpreet Singh have filed CRM-M-2654-2020; Kamaljit Singh and Maninder Singh have filed CRM-M-46048-2019; Gursimaran Singh @ Gaggi, Hardeep Singh and Beant Singh have filed CRM-M-46198-2019 for anticipatory bail.

These petitions have been filed for pre-arrest bail in case FIR

No.130 dated 12.10.2019 under Sections 323, 324, 427, 452, 380, 506, 148, 149

of IPC, 1860 (Section 325 of IPC added later on) registered at Police Station Amloh, District Fatehgarh Sahib.

CRM-M-46048-2019 and CRM-M-46198-2019 came up for hearing on 31.10.2019 before a Coordinate Bench of this Court on which date, the following order was passed:-

*“Present: Mr. L.S. Mann, Advocate
for the petitioner (s).*

Mr. Rishi Kaushal, Advocate for the complainant.

It has been stated that there is dispute amongst the partners, which has resulted in this incident.

With the consent of learned counsel for the petitioners and learned counsel for the complainant, who has put in appearance and filed power of attorney, matter is referred to Mediation and Conciliation Centre of this Court, where petitioner Kamaljit Singh and complainant will appear on 07.11.2019. The mediator will try to explore the chances of amicable settlement and send his report on 18.12.2019.

In order to facilitate the appearance of petitioner Kamaljit Singh before the mediator, petitioners are directed to surrender before the police and join investigation within a week. In the event of their arrest being required, they shall be released on interim bail till the next date, subject to their furnishing bonds to the satisfaction of Arresting Officer. However, they shall abide by the terms and conditions as envisaged under Section 438(2)(i) to (iv) Cr.P.C. failing which they shall lose the benefit of interim bail allowed to them. Petitioner Kamaljit Singh will appear before the mediator on 07.11.2019 and on all the dates given by him. His

failure to appear on any date before the mediator will result in forfeiting the interim bail allowed to him and Investigating Officer will be at liberty to arrest him.

Copy of this order be placed on the file of other connected matter.

October 31, 2019.”

Subsequently on 18.12.2019, it was stated by the counsel for the petitioners as well as counsel for the complainant that the parties are very close to settling the dispute but however, the same could not be finalised and thus, made a joint request to refer the matter to Mediation again. The said order is reproduced hereinbelow:-

“Present: Mr. L.S. Mann, Advocate

for the petitioners in both the petitions.

Mr. Avtar Singh Sandhu, Addl. A.G. Punjab.

Mr. Rishi Kaushal, Advocate

for the complainant.

Learned counsel for petitioners as well as learned counsel for complainant submit that the parties were very close to settlement during mediation proceedings but the same could not be finalized.

On joint request of learned counsel for petitioners and learned counsel for complainant, the matter is again referred to Mediation and Conciliation Centre of this Court, where the parties will appear on 20.01.2020. On request of learned counsel for parties, it is ordered that the matter be now entrusted to some other Mediator.

List on 19.03.2020.

Interim order to continue.

In the meanwhile, investigation of the case will continue and petitioners will keep on joining the investigation as and when called by the investigating officer.

Copy of this order be placed on the file of other connected matter.

December 18, 2019.”

It has been brought to the notice of this Court that the compromise has not fructified.

The present FIR was got registered on the statement of Bhupinder Kumar, who has described himself as Munim of one Beant Singh. As per the version of the said Bhupinder Kumar, it has been stated that he received a phone call from Beant Singh at 04.30 PM who stated that nobody is picking up the phone in the sheller and thus, the said complainant-Bhupinder Kumar went to the sheller to see as to what has happened. Complainant has further alleged that when he entered the sheller, he saw 20-22 persons carrying sticks, dah and out of the said persons he is stated to have recognised 5 persons. The same were Kamaljit Singh (petitioner No.1 in CRM-M-46048-2019), Gursimran Singh @ Gaggi (petitioner No.1 in CRM-M-46198-2018), Beant Singh (petitioner No.3 in CRM-M-46198-2019), Hardeep Singh (petitioner No.2 in CRM-M-46198-2019) and Maninder Singh (petitioner No.2 in CRM-M-46048-2019). It has further been alleged that they broke the wall and also inflicted injuries on the complainant-Bhupinder Kumar and also took away Rs.35000/- cash and bardana sacks worth Rs.30,000/- from the sheller. However, there is no allegation that Beant Singh who had subsequently come to the sheller had suffered any injury.

Learned counsel appearing for the petitioners in all the cases has vehemently argued that Manpreet Kaur W/o Beant Singh was a partner of

Singh had instituted a suit for permanent injunction against Manpreet Kaur and Beant Singh with a prayer to restrain the said persons from dispossessing the plaintiff from the suit property. Learned counsel has referred to the averments made in para 4 of the civil suit to the effect that the said Manpreet Kaur had retired from the partnership firm vide Retirement Deed dated 14.01.2019 and after her retirement, the said Manpreet Kaur had no concern or connection with the partnership firm. It was further averred in the said plaint that electric meter had been installed in the firm and the plaintiff was regularly paying the electricity bills. Further reliance has been placed on order dated 03.08.2019 (P-4) vide which the Ld. Civil Judge, Jr. Division, Amloh had restrained the defendants from interfering into the possession of the plaintiff over the suit property. It is the argument of the learned counsel for the petitioners that the said interim order was continuing on the date of the alleged incident and that once Kamaljit Singh had chosen to file a civil suit and interim order was in his favour, the question of his or his accomplices acting in the manner as alleged in the FIR is highly improbable. It has further been argued that the said FIR has been got registered only to settle the civil dispute and the said fact is also apparent from the orders dated 31.10.2019 and 18.12.2019, in which the parties have been referred to Mediation with the consent of both counsels for the petitioners as well as the complainant.

It has further been argued that out of the 7 alleged injuries, 6 injuries are simple in nature and even one injury which is stated to be a grievous injury is with a blunt weapon and is on a non-vital part i.e. left wrist and thus, would at best attract Section 325 of IPC, which is bailable. It has further been argued that in fact, the said injuries are self-suffered and the same is clear from the fact that Beant Singh who was the employer of the complainant did not suffer any injury in spite of being present on the spot. Learned counsel for the petitioners

contends that the petitioners are not involved in such incident and in fact no such incident took place.

Learned counsel for the petitioners has also stated that although he is not admitting the liability of the petitioners but yet states that the petitioners are ready to deposit Rs.65000/- to show their *bona fide*.

Learned State counsel, on instructions from ASI Paramjit Singh, has stated that the petitioners have not got the weapons recovered and the money is also yet to be recovered from them. However, the fact that the injury which is stated to be grievous is with a blunt weapon on the left wrist and at best attracts Section 325, has not been disputed.

I have heard learned counsel for the parties.

A perusal of the record would show that a civil suit is pending between the parties and interim order was passed in favour of Kamaljit Singh (petitioner No.1 in CRM-M-46048-2019). The present case had been sent to Mediation Centre on joint request of counsel for both the parties to compromise the matter. It was also stated that the parties are very close to settling the matter. The offences under Section 323, 324 and even 325 of IPC are bailable. The issue as to whether trespass took place would be debatable. Further, the learned counsel for the petitioners has fairly undertaken to deposit an amount of Rs.65,000/- in the concerned Court/trial Court within a period of one month from today. With respect to the concern of learned counsel for the State that the weapons have not been recovered, suffice it to say that as per the vehement argument of the counsel for the petitioners, no incident involving the petitioners have taken place. However, this Court does not want to give any final opinion as the same is a matter of trial.

Considering all the said facts and without expressing any opinion on merits of the case, I deem it appropriate to allow all the three petitions and grant

passed in CRM-M-46048-2019 and CRM-M-46198-2019 as well as order dated 22.01.2020 passed in CRM-M-2654-2020 are made absolute.

Nonetheless, the petitioners shall keep on joining the investigation as and when required to do so and shall abide by the conditions as envisaged under Section 438(2) Cr.P.C. The petitioners, as undertaken, would also deposit an amount of Rs.65,000/- in the concerned Court/trial Court within a period of one month from the date of receipt of certified copy of the this order. The concerned Court/trial Court is directed to deposit the same in a Nationalised Bank and the same would be released in favour of the party who ultimately succeeds in the trial Court.

With these directions and observations, the above captioned petitions stand allowed.

(VIKAS BAHL)
JUDGE

10.08.2021
Jitesh (JTS)

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No