

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

CRM-M-16385-2021(O&M)

Date of decision:-22.4.2021

Jagir Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Ms.Satpreet K. Kapila, Advocate
for the petitioners.

Mr.J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioners Jagir Singh, aged 61 years and his wife Gurmit Kaur, aged about 57 years, both of them being accused in FIR No.0092 dated 24.9.2020, under Sections 323, 341, 506, 294, 34, 353, 332, 186 IPC and under Section 13-A of Punjab Village Common Land Regulation Act, 1961 and Sections 3(1) M, 3(2)(va) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as SC & ST Act), registered with Police Station Mullanpur, SAS Nagar(Mohali).

Briefly stated, the facts of the case as per the prosecution story are that on 21.9.2020 at about 4:00 p.m. when the complainant

Paramjit Kaur wife of Kulwinder Singh, resident of village Parol, P.S. Mullanpur Garibdas, District SAS Nagar (Mohali) working as Sarpanch of the village Gram Panchayat, was overseeing the construction work in the street as per orders of the Court, then petitioner/accused Jagir Singh @ Gholi along with his wife co-accused Gurmit Kaur reached at the spot and started abusing the complainant and thereafter Gurmit Kaur attacked her inasmuch as Gurmit Kaur caught hold of the complainant Paramjit Kaur and tore her clothes; thereafter Gurmit Kaur gave beatings to the complainant while Jagir Singh was exhorting his wife and co-accused Gurmit Kaur not to allow the complainant to escape on that day.

On matter being reported to the police, formal FIR was recorded under various provisions of Indian Penal Code. However, offences under the SC & ST Act were added later on after the complainant had approached SC & ST Commission and an enquiry was held.

Apprehending their arrest, the petitioners had approached the Court of Sessions at SAS Nagar (Mohali) by moving an application for pre-arrest bail, which was assigned to Additional Sessions Judge, SAS Nagar (Mohali), who vide order dated 7.4.2021 had dismissed the application on merits as well as due to bar of Section 18 of SC & ST Act. As such, the present petitioners have approached this Court by way of filing the instant petition asking for the similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the records and I am of the view that the petition is doomed for failure. Section 18 of the Act provides that nothing in section 438 of the

Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under SC & ST Act. In that way grant of anticipatory bail in a case registered under provisions of SC & ST Act is barred.

Although learned counsel for the petitioners has contended that offence under SC & ST Act were added later on and as a matter of fact the same are not made out, therefore grant of pre-arrest bail is not barred. But as pointed out by the State counsel, the complainant belonging to a scheduled caste had made a complaint with SC & ST Commission on 28.9.2020 i.e. within a week of the incident and after holding inquiry, offences under SC & ST Act were added, therefore, no fault can be found with the local police for adding such offences.

In view of clear bar provided by Section 18 of SC & ST Act, a petition for grant of of pre-arrest bail is certainly not maintainable. Therefore, the petition deserves to be dismissed for that very reason.

On merits also, the petitioners do not deserve concession of anticipatory bail. Both the accused in pursuance of the common intention are said to have abused Paramjit Kaur, Sarpanch of the village Gram Panchayat, as such a public servant overseeing the construction work in the street and Gurmit Kaur had assaulted Paramjit Kaur, which was in pursuance of common intention of both the accused causing her injuries. Such type of act and conduct on the part of petitioners cannot be taken lightly. The custodial interrogation of the petitioners is necessary for unfolding the complete story and for effective investigation. In case custodial interrogation of the petitioners is denied to the investigating

agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Therefore, the petition is doomed for failure and is dismissed accordingly.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

22.4.2021

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No