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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Decided on: 17.08.2021

1. CRM-M No.26888 of 2021 (O&M)

Akash Deep and another

....Petitioners

Versus

State of Haryana

....Respondent

2. CRM-M No.31431 of 2021 (O&M)

Baljeet Singh @ Joda

....Petitioners

Versus

State of Haryana

....Respondent

3. CRM-M No.30219 of 2021 (O&M)

Pargat Singh

....Petitioners

Versus

State of Haryana

....Respondent

4. CRM-M No.29753 of 2021 (O&M)

Harvinder Singh and another

....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Ashok Kumar Khubbar, Advocate
for the petitioners (in CRM-M-26888-2021)

Mr. G.S. Sandhu, Advocate
for the petitioner (in CRM-M-31431-2021)

Mr. J.S. Sandhu, Advocate
for the petitioner (in CRM-M-30219-2021)

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Mr. S.S. Gill, Advocate
for the petitioner (in CRM-M-29753-2021)

Mr. Deepak Grewal, DAG, Haryana.

Mr. Pardeep Sihmar, Advocate
for the complainant (in all the cases)

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners, namely, Akash Deep, Balwinder @ Rangu, Baljeet Singh @ Joda, Pargat Singh, Harvinder Singh and Lovepreet, pray for grant of anticipatory bail in FIR No.100 dated 16.05.2021, registered under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (amendment 2015) and subsequently added Sections 147, 148, 323, 149, 325 of the IPC at Police Station Pillukhera, District Jind.

The facts as noticed in the order dated 14.07.2021 passed in CRM-M No.26888 of 2021, are as under:-

“Learned counsel for the petitioners submits that the present FIR was registered on 16.05.2021 with regard to an incident, which has allegedly taken place on 26.04.2021, i.e. after a gap of about 22 days.

Learned counsel further submits that prior to registration of the the present FIR, an FIR No. 79 dated 25.04.2021, under Sections 297, 34 of the IPC was registered on a complaint given by Harvinder Kaur (Sarpanch of the village) against the complainant's side i.e. Ajmer Singh (father of the present complainant), Ram Mehar, Pappu and Raju with the allegations that they are doing the Tantrik (Occulist) activities in the cremation ground of the village and on the date of the incident, when the Sarpanch and other villagers reached at the spot, it was found that Ajmer Singh and his brother Ram Mehar

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were doing illegal activities in the cremation ground. It was also noticed by one Gurwinder Singh that aforesaid persons were slaughtering an animal and on the spot, one knife used in the same, pen, copy, liquor bottle and red cloth etc. were also found. Since these activities were hurting the religious sentiments of the inhabitants of the village, the Sarpanch got the aforesaid FIR registered and as a counter blast to the same, showing an incident of 26.04.2021, the present FIR has been registered after a delayed period.

Learned counsel further submits that as per allegations in the FIR, complainant Akshay, it is stated that when his father had gone to cremation ground, the accused persons attacked his father with an intention to kill and caused him injuries. Thereafter, they came to the house of the complainant and by abusing in the name of their caste, they threatened them to leave the village.

Learned counsel further submits that in fact the present FIR is nothing but a counter blast to the earlier FIR, registered against the complainant's side as the inhabitants of the village are opposing to occultist activities being performed by the father of the complainant in the cremation ground by sacrificing the animal and just to put pressure on the petitioners, the present FIR has been registered after a delay of about 22 days.”

Counsel for the petitioners have argued that all the petitioners have joined the investigation and the present petition is a counter blast to the FIR No.79, which was got registered on a complaint given by the petitioner – Harvinder Kaur, who is Sarpanch of the village on account of performing certain tantrik (occultist) activities in the cremation ground, which was heavily opposed by the inhabitants of the village. It is further submitted that the complainant is not an

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ordinary resident of the village and it is own case of the petitioners that the complainant have migrated in this village about 03 years ago and since then they are indulged in the aforesaid activities, which are disturbing the social atmosphere in the village.

Counsel for the State, assisted by counsel for the complainant, has not disputed that the petitioners have joined the investigation, however, it is submitted that since the incident has taken place in a public view and recovery is yet to be effected, the custodial investigation of the petitioners is required.

Counsel for the complainant has additionally argued that on 15.05.2021, a complaint was given by complainant Akshay son of Ajmer, stating that he is residing in the village for the last 03 years and has earlier given a complaint to the Superintendent of Police, Jind. Both the parties were called but no action was taken up. Thereafter, a Panchayat was convened in the village on 12.05.2021 and the accused persons despite making a promise to compromise the dispute, have not effected the same. It is further submitted that his mother Birmati wife of Ajmer has also given a complaint on 31.07.2021 alleging that when her son Akshay and husband were coming back to home, she got an information that the accused are standing on the road with weapons and therefore, she made a phone call to her son and husband to stay at Jind.

Counsel for the complainant has further argued that Akshay has given another complaint on 04.08.2021 that on 10.07.2021, the accused by putting diesel tried to kill him and thereafter, the SHO, Police Station Pillukhera, District Jind, has taken him for medical but the police in collusion with the doctors have prepared a wrong report

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and no case was registered. It is further stated that on 02.08.2021, the accused came in front of their house and provoked them to have a dispute. It is also submitted that the accused on 03.08.2021 at about 03:00 AM, have put fire on a store of his house and some of their articles were burnt and, therefore, action be taken.

Counsel for the petitioners, at this stage, have relied upon one FIR No.192 dated 03.08.2021, which was registered against some of the petitioners with the allegations that when he was sleeping in his house, at about 03:00 AM, he heard some noise and when he came out, he noticed that a store on the side of their house is put on fire and then he woke up his other family members and called a police official namely Ram Mehar, who was standing on the door. Ram Mehar tried to extinguish the fire but the complainant told him that he should not do so, till SHO, Pillukhera, Jind, reached at the spot and nobody should go to the store. It is further stated that the complainant has installed CCTV camera in his house but the place where the store is situated is not covered by the camera. After half an hour, the SHO reached there and extinguished the fire.

Counsel for the complainant has also submitted that the complainant raised a doubt in FIR that Ginda, Rangu, Aakash, may have put the fire in his store. It is, thus, submitted that the petitioners are misusing the concession of anticipatory bail. All these documents are taken on record as 'Mark A', collectively.

In reply, counsel for the petitioners have argued that, in fact, all these acts are brain child of the complainant just to harass the petitioners. It is also submitted that no such incident has taken place on

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31.07.2021 as stated in the complaint given by Birmati. It is further submitted that in the complaint given by Akshay, it is the complainant himself, who is asking the Deputy Superintendent of Police, to get the matter compromised with the petitioners. It is also submitted that a perusal of the complaint dated 04.08.2021 and the FIR No.192 would reveal that the complainant is even creating false evidence by levelling allegation that the accused persons have tried to put fire on him by pouring diesel, the allegation which were not found to be correct by the police as per the medical report. It is further argued that the complainant is not only levelling the allegations against the petitioners but also putting aspersions on the police as well as the government doctors.

Counsel for the petitioners has also submitted that the bare allegation in the FIR that the complainant has put up CCTV camera on his house but the same do not cover the store where the fire incident took place and further when Constable Ram Mehar, who was present at the gate, tried to extinguish the fire, the complainant himself stopped him by saying that till the time, SHO, came, he should not do so show that the complainant is trying to create evidence. Even a suspicion is raised in this FIR that a fire was put up by some of the petitioners. It is further argued that there is every possibility that the complainant in order to create false evidence for himself has put some of his worn out articles like old clothes, etc. on fire. It is also argued that all the petitioners are respectables of the village having good reputation and are Sarpanch and Panches, etc. and there are number of other persons living in the village, who belongs to the SC/ST category and there has

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been no complaint against the petitioners. Counsel for the petitioners has also argued that in fact, prior to the complainant's family shifting to village there was peace and harmony amongst all residents of different castes and it is the complainant's side, who is indulged in certain activities of doing some tantrik (occultist) activities in the cremation ground, which is offending the inhabitants of the village and the petitioner – Harvinder, being the Sarpanch of the village is bound to take action to prevent the complainant from indulging in such nefarious activities and on that account, the present FIR and the subsequent complaints are given.

After hearing the counsel for the parties, considering all the facts and circumstances of the case, I find that it is a fit case where the interim bail granted to the petitioners be confirmed.

Accordingly, the present petitions are allowed and the interim bail granted to the petitioners, namely, Akash Deep, Balwinder @ Rangu, Baljeet Singh @ Joda, Pargat Singh, Harvinder Singh and Lovepreet, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C. It is further directed that in future, if any complaint is given by the complainant side, the same be got verified by an officer, not below the rank of the Deputy Superintendent of Police.

A photocopy of this order be placed on the file of other connected cases.

(ARVIND SINGH SANGWAN)
JUDGE

17.08.2021

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No