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

CRM-M-28431-2021

Date of Decision:12.10.2021

Kuldeep SinghPetitioner

Vs.

State of PunjabRespondent

2.

CRM-M-32684-2021

Seema SinghPetitioner

Vs.

State of PunjabRespondent

3.

CRM-M-34046-2021

Kauri Singh @ Balkaur SinghPetitioner

Vs.

State of PunjabRespondent

4.

CRM-M-34950-2021

Roop Singh @ RubiPetitioner

Vs.

State of PunjabRespondent

5.

CRM-M-35196-2021

Ranjit SinghPetitioner

Vs.

State of PunjabRespondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Abhishek Singla, Advocate &
Mr. Harmanjot Singh Gill, Advocate,
for the petitioners.

Mr. Amit Mehta, Sr. DAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

Case heard via vide conferencing.

A detailed order has passed in these petitions on August 31, 2021, which reads as follows:-

“Vide these petitions, the petitioners seek the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.45, dated 22.04.2021, having been registered at Police Station Raman, District District, alleging therein the commission of offences punishable under Sections 341, 323, 186, 365, 511, 148 and 149 of the IPC.

Learned counsel for the petitioners point to the order passed by this court earlier in CRM-M-28431 of 2021, on 22.07.2021, which reads as follows:-

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of 'prearrest bail' upon FIR No. 45 having been registered at Police Station Raman, District Bathinda, on 22.04.2021, alleging therein the commission of offences punishable under the provisions of Sections 341, 323, 186, 365, 511, 148 and 149 of the IPC.

Learned counsel for the petitioner submits that other than the offence punishable under the provisions of Section 365 of the IPC, which in any case is not made out even as per a reading of the FIR, all other offences are bailable offences and therefore the petitioner, with no direct attribution to him of causing any injury to anybody, deserves the concession of pre-arrest bail.

Without making any comment at this stage on whether or not any offence punishable under the provisions of Section 365 of the IPC is made out or not, a perusal of the FIR shows that, prime facie at least, an offence punishable under the provisions of Section 341 of the IPC was definitely made out (as per the allegations) and as regards the simple injury stated to have been inflicted on the back of the head of the complainant and on his back, though that is not attributed to the petitioner, however, the provisions of Sections 148 and 149 of the IPC have also been invoked out in the FIR.

Hence, in my opinion the petitioner would not be entitled to the concession of anticipatory bail at least, in view of what is contended in the FIR.

However, looking at the fact that the complainant submits that he was patrolling the area with police officials, that does raise the eyebrow of this court and therefore, without at this stage making any comment on the actual merits of the case, notice of motion is issued.

On the asking of the court, Mr. Ramdeep Partap Singh, DAG, Punjab, accepts notice on behalf of the respondent-State.

A copy of the petition be emailed to learned State counsel by learned counsel for the petitioner today itself.

He would get the affidavit of a gazetted officer filed in reply to the petition, also stating therein as to how a person who was not a police official was contended to have been patrolling the area with police officials, as is stated in the FIR itself.

In the aforesaid circumstances, till the next date of hearing before this court, upon the petitioner joining investigation within 05 days, in case he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall also comply with the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this court. Adjourned to 06.08.2021. ”

Though learned State counsel submits that an affidavit in reply to the petition has been filed by a gazetted officer, however that is not seen on the case file, with counsel for the petitioner also submitting that he has not received a copy thereof.

Upon query to learned State counsel as to what is stated as to under what circumstances a 'non-police person' was patrolling the area with the police party, he submits that in fact he had joined the police party later and made a supplementary statement to that effect.

That is slightly difficult to believe for this court, in view of the fact that the alleged supplementary statement has only surfaced after the order of this court.

Consequently, notice of motion is issued in CRM-M nos.34950, 32684 and 35196 of 2021.

Mr. Rana Harjasdeep Singh, learned DAG, Punjab, accepts notice at the asking of the court on behalf of the respondent State.

Learned State counsel further clarifies that the person injured in the occurrence (as per the FIR) was not a police official, but the complainant himself, with all simple injuries inflicted on him.

That being so, with no reply having been filed as yet by the State to CRM-M-28431 of 2021, the petitioners in CRM-M nos.34950, 32684 and 35196 of 2021 are directed to join investigation within one week. In case they are sought to be arrested, they would be released on bail, on their furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

They shall also comply with the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioners in investigation, they would appear before the learned Ilaqa Magistrate

**CRM-M-28431-2021 &
connected petitions**

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immediately, who would then summon the arresting officer and direct him to join them in investigation.

Adjourned to 01.10.2021.

CRM-M no.28431 and 34046 of 2021

Adjourned to 01.10.2021.

A reply be positively filed by a gazetted officer to CRM-M-28431 of 2021 and in the preliminary submissions thereto the role of each and every petitioner in these petitions be specifically enumerated.

Interim order to continue till that date only and specifically.

A copy of this order be also placed on the case file of the other connected petitions.”

Eventually, pursuant thereto, an affidavit of the DSP, Talwandi Sabo, dated 10.10.2021, has been filed, which is ordered to be taken on record.

A perusal of the said reply shows that a supplementary statement is contended to have been made by the complainant, Surjit Singh, on April 30, 2021, to the effect that while he was going for work on a vehicle, a police party led by ASI Raghbir Singh, which was on patrolling duty, had met him and therefore he had joined the police party on his vehicle and he could not record that at the time the FIR as he was in a perplexed state of mind.

However, it has also been stated in the affidavit that dereliction of duty was found by ASI Raghbir Singh and consequently, departmental proceedings have been initiated against him vide an order passed by the SSP, on 24.09.2021.

It has next been stated that the petitioners, upon having joined investigation on different dates, a recovery of weapons (*dang*/iron sabbal), has also been made from them.

As regards the antecedents of the petitioners it is stated that one other FIR each, stands registered against all of them, other than Kuldeep Singh.

It has also been stated that the petitioners possibly tried to abduct the complainant who had actually run away from the spot, with the petitioners following him and beating him up.

However, with the query of this court as regards how a 'non-official' person was accompanying a police party not having been at least satisfactorily answered by the DSP (in the opinion of this court), and the recoveries already having been made from the petitioners (as contended by the DSP), with the ASI who was heading the police party itself found to be *prima facie* at least guilty of negligence of duty etc., without making any comment on the actual merits of the case, the petition is allowed, with the orders passed in favour of the petitioners, admitting them to interim bail, made absolute on the same terms and conditions.

(A photocopy of this order be placed on the files of the each case).

October 12, 2021

dharamvir

(AMOL RATTAN SINGH)

JUDGE

Whether speaking/reasoned : YES

Whether Reportable : NO