

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Date of decision : 28.10.2021

1.

CRM-M-44377-2021

Surjeet Singh

... Petitioner

Versus

State of Haryana

... Respondent

2.

CRM-M-44571-2021

Kuldeep Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Ramnish Puri, Advocate
for the petitioners.

Mr.Praveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This order will dispose of aforesaid two cases, i.e. CRM-M-44377-2021 filed by Surjeet Singh and CRM-M-44571-2021 filed by Kuldeep Singh, under Section 438 read with 482 of the Cr.P.C. with a prayer to grant anticipatory bail in FIR 538 dated 29.08.2021 registered under Section 3(1) (r), 3(1)(s) of SC and ST (Prevention of Atrocities) Act,

With the consent of the parties, the facts being the same for the two cases, are being taken from CRM-M-44377-2021.

The brief facts of the prosecution are that the FIR had been registered on the complaint of Pinki wife of Malkhan, who had given a statement that in village Rawa as per the scheme of Pardhan Mantri Yojna, the work under MNREGA was going on and some persons of the village were harassing the complainant and the labourers, since the time the said work had started, and Surjeet Singh (petitioner in CRM-M-44377-2021) and Kuldeep Singh (petitioner in CRM-M-44571-2021) and Bohti Devi wife of Surjeet Singh together, verbally abused the complainant by using casteist words and on 25.08.2021 at around 10/10.45 AM, the said three persons gave abuses by making casteist remarks and threatened that they will put all the labourers behind the bars. The petitioners had applied for anticipatory bail and the same was rejected.

Learned counsel for the petitioners has submitted that the present FIR is a counter blast to the complaint dated 27.08.2021 (Annexure P-2) which has been given by Bohti Devi, wife of Surjeet Singh (petitioner in CRM-M-44377-2021) and also to the complaint dated 19.08.2021 which was given to the CM office vide receipt dated 19.08.2021 (Annexure P-4). It is further submitted that a perusal of the FIR would show that it is nowhere stated that the petitioners had the knowledge that the complainant belonged to a scheduled caste. It is further submitted that no specific words were stated to have been spoken by any of the accused and it is not possible that all the said persons would have spoken the same words together. It is further submitted that there is a delay of 4 days in filing the complaint inasmuch as the incident is alleged to have occurred on 25.08.2021 whereas the FIR was

registered on 29.08.2021. Reliance has been placed upon the judgment of co-ordinate Bench of this Court in CRM-30576-M-2002 decided on 01.08.2002 titled as “**Jagir Chand vs. State of Punjab**” as well as CRM-M-3956-2020 decided on 27.02.2020 titled as “**Baljinder Kaur vs. State of Punjab**” to contend that in case the FIR is a counter blast to the complaint given by the petitioner or if the ingredients of the provisions are not met with, then the bar under Section 18 cannot come in the way of the petitioner being granted the concession of anticipatory bail.

Per contra, learned State counsel has opposed the petitions for bail and has submitted that offence under Section 3(1)(r) and 3(1)(s) of the SC and ST (Prevention of Atrocities) Act, 1989 is made out.

This Court has heard learned counsel for the parties.

The present FIR has been registered on 29.08.2021 whereas the incident is stated to be of 25.08.2021 and thus there is delay of 4 days in registration of FIR. The FIR has been registered as a counter blast to the complaint dated 27.08.2021 made by Bohti Devi wife of Surjeet Singh against the complainant as well as another complaint (Annexure P-3) which has been given to the CM window vide receipt dated 19.08.2021. A perusal of the FIR would also show that it is nowhere stated that the petitioners had the knowledge that the complainant belonged to a scheduled caste. All the accused persons were alleged to have together stated the words as mentioned in the FIR without there being a specific reference as to which of the accused persons had uttered what words. The co-ordinate Bench of this Court in **Jagir Chand's** case (supra) had observed that if in a complaint/ FIR it is not mentioned that the accused persons were aware of the fact that the complainant belonged to a scheduled caste, then in such a situation the

bar under Section 18 would not apply and the petitioner therein would be entitled to anticipatory bail. Similarly, in ***Baljinder Kaur's*** case (supra) it was observed by the co-ordinate Bench of this Court that where an FIR has been registered as a counter blast to a complaint filed by the petitioner, then the bar under Section 18 would not be an obstacle and the petitioner would be entitled to the grant of anticipatory bail.

Thus, keeping in view the aforesaid facts and circumstances as also the above legal position, the bar under Section 18 is not attracted as *prima-facie*, the ingredients of the offence under Sections 3(1)(r) and 3(1)(s) of the Act are not made out and thus, the present petitions for anticipatory bail are allowed and in the event of arrest, the petitioners shall be released on bail subject to furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. The petitioners shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) of Cr.P.C.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

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

(VIKAS BAHL)
JUDGE

October 28, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No