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

CRM-M-11930-2022 (O&M)

Date of decision : 29.03.2022

Jagdev Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amardeep Singh Mann, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. J.K. Singla, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

CRM-11648-2022

Application is allowed, as prayed for.

Annexures P-3 to P-5 are taken on record, subject to all just exceptions.

Main case

The present petition has been filed by the three petitioners for grant of anticipatory bail in DDR No.28 dated 26.02.2022 registered under Sections 323 and 34 of the Indian Penal Code, 1860 and Sections 27/54/59 of the Arms Act, at Police Station Bhikhi registered in cross-version to FIR No.137 dated 18.06.2020 registered under Sections 323, 341, 148, 149 of IPC and Section 25 of the Arms Act, 1959 at Police Station Bhikhi, District Mansa.

Learned counsel for petitioners has submitted that as per the case

of the prosecution, the injuries have been attributed to petitioner No.1 and thus, he seeks permission of this Court to withdraw the present petition qua petitioner No.1 and states that petitioner No.1 is ready to surrender before the police within a period of 10 days from today.

Learned counsel for the petitioners has further made a prayer that in case, petitioner No.1 surrenders before the police within a period of 10 days from today and files an application for grant of regular bail after surrender, the same be decided as expeditiously as possible preferably within a period of four days from the date of filing of the said application.

In view of the statement made by learned counsel for the petitioners, the present petition is dismissed as withdrawn qua petitioner No.1.

In case, after surrendering before the police within a period of 10 days from today, petitioner No.1 files an application for grant of regular bail, the trial Court is requested to decide the same as expeditiously as possible preferably within a period of four days from the date of filing of the said application.

With respect to petitioner Nos.2 and 3, learned counsel for the petitioners inter alia contends that in the present case, in fact, the FIR was registered by Jagdev Singh (petitioner No.1) on the allegations that petitioner Nos.2 and 3 who are his sons had gone to their field and there, the complainant and other persons that belonged to the complainant party had attacked petitioner Nos.2 and 3 and in order to protect the said petitioner Nos.2 and 3, Jagdev Singh (petitioner No.1) had taken his double barrel gun and had at the first instance fired the same in the air and thereafter, fired towards the feet of the complainant so that they would run away. It is further

submitted that as per the said FIR, even Jagseer was carrying a country made pistol and they were throwing brick bats towards the petitioners who were standing on the roof of the *Kotha*. It is argued that the cross-version was recorded vide DDR dated 26.02.2022 on account of the fact that petitioner No.1-Jagdev Singh, while trying to defend himself had inflicted injuries upon the complainant. It is further argued that it is the admitted case of the parties that neither petitioner Nos.2 or 3 has caused any injury nor they were alleged to be carrying/armed with any weapon. It is contended that the fact that complainant party was in fact the aggressor would also be prima facie proved from the factum that the petitioners had gone to the roof of their *Kotha*.

Notice of motion.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the State and Mr. J.K. Singla, Advocate appears on behalf of the complainant and have submitted that they are fully prepared to argue the matter and assist this Court. They have opposed the present petition for grant of anticipatory bail to the petitioners and submitted that in the present case, said Jagdev Singh (petitioner No.1) had caused 20 injuries on the legs and arms of the complainant. It is further submitted that in fact, it is the petitioner party who were the aggressors.

This Court has heard the learned counsel for the parties and has perused the paper book.

It is the admitted case of the parties that the injuries to the complainant have been caused by Jagdev Singh (petitioner No.1). The present petition qua petitioner No.1 has been withdrawn. Neither any injury has been attributed to petitioner Nos.2 or 3 nor they were stated to be carrying/armed

with any weapon. In the present case, FIR was registered by petitioner No.1 and DDR has been registered after a period of more than 1 year and 8 months against the petitioner party. Thus, the present case is a case of version and cross-version and the question as to who was the aggressor party, would be considered at the time of the trial.

Keeping in view the abovesaid facts and circumstances, the present petition qua petitioner Nos.2 and 3 is allowed and in the event of arrest, petitioner Nos.2 and 3 are granted the concession of anticipatory bail subject to their furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer and the conditions envisaged under Section 438(2) of Cr.P.C. However, petitioner Nos.2 and 3 shall join the investigation as and when called upon to do so.

It is made clear, in case, petitioner Nos.2 and 3 fail to join the investigation or do not cooperate with the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to petitioner Nos.2 and 3.

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.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

29.03.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No