

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

CRM-M-42764-2022

Date of decision : 21.09.2022

Jaswinder Singh @ Gaggi and another

.....Petitioners

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. P.S. Brar, Advocate
for the petitioners.

Mr. Sandeep Kumar, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioners in case FIR No.90 dated 15.03.2022, under Sections 354, 354-A, 354-B, 354-C, 506, 379-B(1), 148, 149 of IPC (Section 201 IPC added later on) and Sections 25/27/54/59 of Arms Act, 1959, registered at Police Station City Faridkot, District Faridkot.

As per the facts of the case, the present FIR was lodged by the complainant. The sum and substance of the allegations that the dispute took place between the complainant side and the accused on account of wall being constructed by the complainant side where the accused obstructed the construction of the wall of the complainant and thereafter, the accused obstructed him and threatened him. It was also alleged that the complainant was caught hold and on the gun point her gold chain was also snatched. It was alleged that the complainant had constructed the house in the Scheduled Caste Society whereas, Jaswinder Singh @ Gaggi and the other accused wanted forcible possession of the house. The complaint was lodged to

register the FIR and to take legal action against the accused. On the basis of the same, FIR was registered and the investigation commenced. The petitioners were arrested on 16th March, 2022. They approached the Court of learned Additional Sessions Judge, Faridkot praying for grant of bail. However, after hearing counsel for the parties, the same was declined by the learned Additional Sessions Judge, Faridkot vide order dated 05.04.2022. Aggrieved by the same, the petitioners are before this Court praying for grant of regular bail.

It has been contended by counsel for the petitioners that the petitioners have been falsely implicated in the present case. He has submitted that both the side are resident of the same village. He has submitted that from the bare reading of the allegations in the FIR, it is apparent that the allegations are false and frivolous and are omnibus in nature. To strengthen his arguments, learned counsel for the petitioners has submitted that after investigation, the challan was submitted and now learned trial Court has examined the complainant as PW-1. He submits that the complainant has not supported the case of the prosecution and thus, on the request of learned Public Prosecutor, she was declared hostile. He has submitted that once the complainant herself has not supported the case of the prosecution, false implication of the petitioners is writ large. He has submitted that in the facts and circumstances of the case, the petitioners deserve to be granted bail.

Learned State counsel, on instructions from ASI Sukhdev Singh, has submitted that there were specific allegations against the petitioners. However, he submits that during investigation, offence under Sections 25 and 27 of Arms Act were deleted vide DDR No.25 dated 22nd March, 2022. He has candidly acknowledged that the complainant has been

examined and she has not supported the case of the prosecution.

I have heard counsel for the parties and perused the record.

It is evident from the case of the prosecution that the FIR was lodged by the complainant-Kirandeep Kaur. She has been examined by the trial Court as PW-1 where she did not support the case of the prosecution. The complainant is the eye-witness of the case and she has disowned before the trial Court on her allegations made in the FIR. He has submitted that as per the record in all, there were, six accused in this case, out of which rest of the four accused are already on bail and the petitioners are the only accused who are behind bars.

The allegations and the counter-allegations in the FIR would be assessed by the trial Court only after conclusion of the trial. The trial of the case will take sufficient long time. However, confining itself to the prayer made for bail, this Court finds that counsel for the petitioners succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioners are ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

21.09.2022
m. sharma

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No