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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53834-2019 (O&M)
Decided on: January 31, 2022

Suresh Kumar

... Petitioner

Versus

State of Haryana

...Respondent

CRM-M-1441-2020 (O&M)

Gurmeet

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ashit Malik, Advocate
for the petitioner (in both petitions).

Mr. Naveen Singh Panwar, DAG, Haryana.

(Through video conference)

JASGURPREET SINGH PURI, J. (ORAL)
CRM-2581-2022 in CRM-M-53834-2019

Application for exemption from filing the certified copy of Annexure P-9 and for placing on record Annexure P-9 and P-10, is allowed subject to all just exceptions.

Application stands disposed of.

Main cases:

Both these petitions are taken up together since the prayer made in both petitions pertaining to grant of anticipatory bail to the petitioners and they are relating to the same FIR and therefore, both petitions can dispose of together. The learned counsel for the petitioners as well as the counsel for the State have no objection to the same.

The present petitions have been filed under Section 438 of Cr.PC seeking for grant of anticipatory bail in FIR No.140 dated 15.10.2019, under Sections 148, 149, 285, 342, 365, 379A, 427, 447 & 506 IPC and Section 25 of Arms Act, 1959, registered at Police Station Titram, District Kaithal, Haryana.

As per the allegations contained in the FIR dated 15.10.2019, which was lodged on the basis of complaint made by Naresh Kumar son of Prem Singh that they are farmers and do the agricultural work and there was a dispute over 8 acres of land between the petitioners and the complainant and they had won the case. They had kept men for sleeping in the fields and had sown bajra, maize and paddy crops in 8 acres of land and in the intervening night of 14/15 October, 2019, he along with another person, namely, Rajender son of Naseeb Singh, was sleeping in the hut of the fields of his village. At about 11:00 PM, the petitioner along with his two sons, namely, Gurmeet-petitioner in CRM-M-1441-2020 and Gaurav and 30-35 more persons armed with dandas, gandasis and four pistols reached at the fields riding in Jonga Jeep, 4 tractors and 10 motorcycles and when they reached near the hut, they fired in the air and destroyed the bajra crop sown in 6 acres of land and maize crop sown in 1 acre of land. They were beaten up by the said persons when the complainant restrained them and an amount of Rs.1,130/- was snatched from the complainant by Gurmeet.

Mr. Ashit Malik, learned counsel for the petitioners submits that in fact it was a case where there was a dispute of land between the petitioners and the complainant and civil litigation is also pending between both the parties in District Court at Kaithal. He submitted that in fact the present FIR No.140, dated 15.10.2019 was not only false and frivolous but

it was a clear counter-blast of FIR to which the petitioners had got lodged against the aforesaid Naresh Kumar-complainant vide Annexure P-1, FIR No.106, dated 21.07.2019, i.e. about 3 months before lodging of the present FIR. In fact, the petitioners had filed a complaint to the Police that the complainant Naresh Kumar and other persons had destroyed their crops and since it was a case of land dispute, the present FIR No.140 dated 15.10.2019 has been lodged against the petitioners in order to harass the petitioners and other counter-blast caused to the earlier FIR lodged by him. He has further submitted that it is a case of no injury. He has further submitted that vide orders dated 17.12.2019 and 15.01.2020 passed by this Court wherein notice of motion were issued, and both the petitioners were granted interim protection. Thereafter, both the petitioners had joined the investigation and had cooperated in the investigation process but the State counsel has raised the objections that the petitioners are not cooperating with the investigation process because no recovery has been made with regard to the Jonga Jeep, tractor and country-made pistol and this Court had granted the bail to the petitioners to go through the investigation process.

Learned counsel for the petitioners has further pointed out to Annexures P-9 & P-10 to state that so far as the tractor is concerned, the same has been released on Superdari by the learned trial Court to the sister of the petitioner and so far as the Jonga Jeep is concerned he has filed an affidavit of the petitioner-Gurmeet Singh that neither he nor his family members having any weapon or Jonga Jeep with them. It has further been submitted by the learned counsel for the petitioners that it is a case of the prosecution itself that the fire was shot in the air and no injury has been caused to anybody and now certain objections have been raised by the

learned State counsel that the weapon and Jonga Jeep have not been recovered, cannot become a ground for denial of bail to the petitioners especially, in view of the fact that the petitioners have joined the investigation process. He further submitted that on mere allegations that the petitioners had fired in air, cannot deprive the petitioners of their liberty guaranteed under Article 21 of the Constitution of India.

On the other hand, Mr. Naveen S. Panwar, learned DAG, Haryana has submitted that it is correct that the petitioners in pursuance of the orders passed by this Court joined the investigation but the only objection is pertaining to the recovery of Jonga Jeep and the country-made pistol from where he allegedly fired.

I have heard the learned counsel for the petitioners as well as the State counsel.

In pursuance of the orders passed by this Court on 17.12.2019 in CRM-M-53834-2019 in Suresh Kumar's case and on 15.01.2020 in CRM-M-1441-2020 in Gurmeet's case, both the petitioners have admittedly joined the investigation process. The only objection which has been raised by learned State counsel is that the Jonga Jeep as well as the weapon have not been recovered from the petitioners. However, Petitioner Gurmeet Singh has filed an affidavit by stating that the petitioners or their family members, do not have any Jonga Jeep or weapon. It is a case of no injury and therefore, the question which would arise for consideration before this Court would be as to whether this can become a ground for denial of bail to the petitioners or not. As per the facts and circumstances of the present case, there is a dispute of land between the petitioners and the complainant and civil litigation is already pending before the learned District Court. The

complainant vide Annexure P-1, had in the month of July, 2019 filed a complaint against the complainant Naresh Kumar that he along with other persons had destroyed the crop belonging to the petitioner and after a period of 3 months the present FIR has been lodged against the petitioners by Naresh Kumar that the petitioners have destroyed the crop. Therefore, in such a situation, a balance has to be struck between the freedom of the petitioners on the one hand and the severity, magnitude and gravity of the offence on the another hand apart from the fact that as to whether there is any possibility of the petitioners fleeing from justice. It is not the case of the State that in case the petitioners are granted bail then they may abscond from justice or may influence any witness or may tamper with any evidence. The degree of seriousness and gravity of the offence where no injury has been caused to anybody would, therefore, become subservient to the freedom of the petitioners.

Therefore, taking into consideration the totality of the circumstances of the present case, this Court deems it fit and proper to allow the present petitions. Consequently, it is directed that the orders dated 17.12.2019 passed in CRM-M-53834-2019 and order dated 15.01.2020 in passed in CRM-M-1441-2020, are hereby made absolute.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

January 31, 2022

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No