

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.13189 of 2023
Date of decision: 28th March, 2023

Sant Lal & another
... Petitioners
Versus
State of Haryana
... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Narender Kaajla, Advocate for the petitioner.
Mr. Rahul Mohan, Dy. Advocate General, Haryana
for the respondent/State.
Mr. Deepak Vashishth, Advocate for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

The instant petition has been filed under Section 439 Cr.P.C. for grant of the concession of bail in case bearing FIR No.1284 dated 19.10.2022 under Sections 147, 148, 323, 341, 506 IPC (Sections 325, 307, 34 IPC added later on) registered at Police Station Sadar Hisar, District Hisar.

Learned counsel for the petitioners inter alia contends that it is a case of version and cross version, wherein it was a matter of record that both the sides had sustained injuries at the hands of each other. He submits that the occurrence in question took place in the agricultural fields qua which there was a dispute going on between the parties. He further submits that the occurrence in question took place on 16.10.2022 and the FIR was registered on 19.10.2022, much after a

DDR had been got recorded at the instance of Raghubir Singh, father of petitioner No.2, on 17.10.2022 qua the alleged occurrence.

While drawing the attention of this Court to the allegations levelled in the FIR in question, which has been annexed as Annexure P-1, learned counsel submitted that the place of occurrence was an undivided piece of land measuring one and a half acres, which was in the name of the deceased parents and grandparents of the complainant and petitioners respectively. Learned counsel submitted that in fact it was the complainant party, which had aggressed upon the 1½ acres of land which was being cultivated by the petitioners and it was on account of the unprovoked attack launched on them, the occurrence in question took place. It was submitted that as per the allegations levelled in the FIR, both the petitioners have been attributed a single blow each with an iron rod on injured Ashok, out of which an injury on the head of Ashok attributed to petitioner No.1 was declared dangerous to life. Learned counsel submits that it would be a matter of trial as to which of the two parties was the aggressor. A prayer has therefore, been made for grant of the concession of bail to the petitioners.

Per contra, learned State counsel assisted by learned counsel appearing for the complainant, while opposing the prayer and submissions made by the counsel opposite, has not been able to controvert that in the occurrence in question, both the parties had received injuries at the hands of each other. However, it was submitted that the injury received by the petitioner's side was not declared

dangerous to life whereas on the side of the complainant, Ashok suffered 5 injuries including one injury which was declared dangerous to life. Learned State counsel has further submitted that the challan stands presented and charges are likely to be framed on the next date of hearing.

I have heard learned counsel for the parties and perused the relevant material on record.

Admitted case of the prosecution is that complainant Dalbir, late Dharambir and accused Raghbir are real brothers. Petitioner No.1 is son of late Dharambir whereas petitioner No.2 is son of accused Raghbir. The father of aforesaid three brothers owned 4 ½ acres of land, out of which one acre each had been given to the three brothers. Their father had been missing for the last 11 years whereas their mother died about 4 months prior to the occurrence in question. The bone of contention is the aforesaid undivided one and a half acres of land, each party claiming to be exclusively cultivating the same or portion thereof. As per the case of the complainant, on coming to know that the accused party was sowing 1 ½ acres of land, he along with his family went to the spot on motorcycles where they were then assaulted by the opposite party, as a result of which his son Ashok received injuries.

The petitioners have been in custody since 06.12.2022. In the facts and circumstances, wherein admittedly both the sides received injuries at the hands of each other, it would be ascertained only during trial as to which of the two parties was an aggressor. Since

investigation is complete, further incarceration of the petitioners would serve no useful purpose as the trial shall take considerable time to conclude. Accordingly, this Court deems it fit to allow the instant petition. The petition as such is allowed and both the petitioners are admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

March 28, 2023
rps

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