

In the court of Shri Kuljit Pal Singh, Addl. Sessions Judge,
Jalandhar(UID No. PB0125).

BA No.30/2018
CNR NO. PBJL010000102018
Date of order: 3.1.2018
Next date:20.1.2018.

1. Jatinder Kumar son of Kashmiri Lal (aged about 34 years)
 2. Sadhu Singh son of Ranjit Singh(aged about 58 years)
 3. Bhupinder Singh son of Ranjit Singh(aged about 52 years)(name of accused/ petitioner wrongly mentioned as Pinder Singh)
 4. Prabhjot Singh son of Parvinder Singh (aged about 22 years)
 5. Chetan Singh son of Kulwinder Singh(aged about 22 years)(name of accused/petitioner wrongly mentioned as Gurchetan Singh son of Binder Singh)
 6. Taranjit Singh son of Jaspal Singh (aged about 40 years)(name of accused/ petitioner wrongly mentioned as Raja nephew of Sadhu)
- All residents of village Talwan PS Bilga District Jalandhar.

Accused/petitioners

Vs.

State of Punjab.

FIR No. 165 dated 23.12.2017
U/s 353/186/506 IPC.
PS Bilga District , Jalandhar.

First Bail application under section 438 Cr.Pc

Present:- Sh. DS Dyal Adv for the petitioners.

ORDER:

1. Received by entrustment. It be registered.

2. This order of mine will dispose of an application under section 438 Cr.PC for issuance of direction to IO/AO PS Bilga Jalandhar to the effect that in the event of arrest , the accused/ petitioners may be admitted on bail.

3. FIR in this case has been registered as per the letter of BDPO Nurmahal that the gram panchayat village Talvan passed the resolution on dated 26.12.2017 that one street was made by the Gram Panchayat ten years ago. Jatinder Kumar son of Kashmiri Lal encroached on some part of the said street. As per the asking of Balwinder Singh Sarpanch, Kuljinder Singh Panch to remove the illegal possession, then Jatinder Kumar , Sadhu Singh son of Sh. Ranjit Singh, Bhinder Singh son of Ranjit Singh, Gurchetan Singh son of Bhinder Singh, Bhinder Singh son of Ranjit Singh, Raja nephew of Sadhu Singh, Prabhjot Singh son of Sh. Parminder Singh abused to the panch and sarpanch at the spot and took scuffled with them and refused to remove the illegal possession. Thereafter, the present FIR has been registered against the accused persons.

3. Ld counsel for the petitioners/accused argued that accused/ petitioners are innocent and having committing no offence. It is further argued by the ld counsel for the petitioners that as the FIR under section 186/353/506 IPC has been registered against the accused persons wheres there is a bar for taking cognizance under section 186 IPC without adopting the procedure under section 195(1) of Cr.Pc . He relied upon **2006(3) RCR(Criminal)586:2006(2)PLR 624 of Punjab and Haryana High Court Chandigarh titled as Rajinder Kumar Chhibbar Vs.**

Aseem Bakshi . Ld counsel for the petitioners also relied upon **1991(1) RCR(Criminal) 192: 1991(1) CurLJ 245: 1990(2) AICLR of Punjab and Haryana High Court Chandigarh titled as Blhagat Ram Vs.State of Punjab and 1968 CrI L.J 1329(Vol 74 C.N. 376) AIR 1968 ALLAHABAD 342(V 55 C 85) TITLED AS RADHEY SHAM GUPTA VS THE STATE.** Hence submitted that without filing complaint after adopting the procedure under section 195(1) Cr.Pc cognizance cannot be taken with regard to the offence under section 186 Cr.Pc. Hence, prayed to release the accused / petitioners on anticipatory bail.

4. Heard. As in this case the FIR has been registered under section 186 Cr.Pc alongwith the offence under section 353/506 IPC. However, as per the authorities (supra) relied upon by the ld counsel for the petitioners, there is a bar for taking cognizance without followed the procedure of 195(1) Cr.Pc . Even, as per the authority relied upon Radhey Sham Gupta Vs. State where it is held that offences cannot be split up so as to evade the provisions of section 195. As such, it is debatable in this case that without filing the written complaint to the court as per the provisions of section 195 of Cr.Pc, cognizance cannot be taken against the accused persons . Moreover, as per the facts of the complaint, there is no specific act attributed to any accused/ applicants .

5. Therefore, taking into consideration all these facts , accused are directed to join the investigation before the SHO/IO of P.S Bilga, Jalandhar within 10 days and on such surrender they be released on interim bail , subject to the following conditions:-

(i)that the applicants/accused will co-operate in the investigation;

(ii)that the applicants/accused will not intimidate the witnesses or tamper the investigation;

6. Notice of the application be issued to the State for 20.1.2018. Report by the concerned police station be submitted on the said date. Police record be also called for the said date.

Note: Certified that all the four pages of this order are signed by me and have been dictated and typed directly on computer.

Pronounced
3.1.2018
(Dimple Khosla)*

(Kuljit Pal Singh)
Addl. Sessions Judge,
Jalandhar(UID No. PB0125)

Present:- Sh. DS Dyal Adv for the petitioners.

Bail application under section 438 Cr.pc received by entrustment. It be registered. Vide my separate detailed order of even date, applicants/ petitioner are directed to join the investigation before the IO within 10 days . Adjourned to 20.1.2018 for awaiting report from the concerned police station. Police record be also called for the said date.

Pronounced
3.1.2018
(*Dimple Khosla*)*

(Kuljit Pal Singh)
Addl. Sessions Judge,
Jalandhar(UID No. PB0125)