

PBGD010067062019



Presented on : 25-06-2019
 Registered on : 25-06-2019
 Decided on : 06-07-2019
 Duration : 0 years, 0 months, 11 days

**IN THE COURT OF
 Special Judge at, Gurdaspur
 (Presided Over by Sh. Jatinder Pal Singh Khurmi)**

Bail Application No. 283 of 25-06-2019.
 R.B.T. No. 421 of 04-07-2019.

CNR No. PBGD01-006706-2019

CIS No. BA-1729-2019

Mohinder Pal Singh, aged about 59 years, son of Darshan Singh, resident of Village Kaunta, Police Station Dinanagar, Tehsil and District Gurdaspur.

... Applicant.

Versus

State of Punjab

...Respondent.

FIR No.76, dated 06-06-2019,
 Under Section 323 IPC read with Section 75 of the Juvenile Justice Care and Protection of Children Act, 2015 and Section 3 (1) read with 3 (1) (S) the Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015.
 Police Station: Dinanagar.

Application for bail under Section 438 Cr.P.C.

Present: Shri Inderjit Sharma, Advocate for the applicant-accused.
 Shri J.P. Bains, Additional Public Prosecutor for the State.

ORDER

By the instant application the applicant Mohinder Pal Singh has sought concession of pre-arrest bail in a case arising out of FIR No.76 dated 06-06-2019, under Sections 323 IPC read with Section 75 of the Juvenile Justice Care and Protection of Children Act, 2015 and Section 3

(1) read with 3 (1) (S) the Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015, registered at Police Station, Dinanagar, District Gurdaspur.

2. Notice of the bail application was issued to the State-respondent and record has been received.

3. The brief facts, necessary for disposal of instant bail application are that present case has been registered on the statement of complainant Sanjiv Kumar son of Gurdas Mal, resident of Village Konta, Tehsil and District Gurdaspur. He stated to the police that on 06-06-2019 at about 12-00 noon, his son namely Arjun, aged about 6 years was playing and he entered into the land of accused-applicant Mohinder Pal Singh. At that time, his wife Harjinder was watering the animal in the Haveli. Mohinder Pal Singh was armed with stick and was beating his son with stick and also saying that Kutteyo Mahahse, he will not allow them to live ear his land. His son was crying loudly. His wife tried to save son Arjun by raising alarm and he also reached on the spot by hearing alarm and in his presence Mohinder Pal Singh hit his son five time with stick blow which hit on right wrist and three stick blow landed out back side of the body and one blow on upper portion of right leg. He along with his wife raised hue and cry and in the meantime, accused-applicant ran away from the spot by giving abuses. On t he basis of afore-said complaint,

4. Learned counsel appearing on behalf of the applicant submitted that false case has been registered against the accused-applicant and the allegations levelled in the FIR are false, concocted and manufactured one. Neither any assault was made by the applicant nor any

injuries were received by the Juvenile from the hands of accused-applicant. The complainant has procured false MLR in order to implicate the applicant in the instant FIR due to political rivalry with family of applicant. No offence under Section 323 IPC is made out because no such occurrence has taken place on 06-06-2019. The alleged occurrence have taken place in the land/field of applicant not in the presence of public view. The FIR shows that nobody from the public was present there and only complainant and his wife reached on the spot later-on. With these submissions, he prayed that the applicant be released on anticipatory bail. In support of his contentions, learned counsel for the accused-applicant relied upon case titled as *Mahesh Shakharam Patole Versus The State of Maharashtra 2010 (1) Criminal Court Cases 485 (Bombay); Rajendra Kumar Versus Dayanand & Ors. 2018(3) Criminal Court Cases 158 (Allahabad) ; Vimal Arackal Versus State of Kerala 2018 (SUPPL.) Criminal Court Cases 677 (Kerala) and Dr. Subash Kashinath Mahajan Versus State of Maharashtra and Anr. 2018 (2) R.C.R (Criminal) 552 (SC).*

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes to grant regular bail to the accused-applicant on the facts and in the circumstances of the case. He prayed that in view of the gravity and seriousness of the allegations, no case is made out in favour of the accused-applicants for the grant of anticipatory bail. With these submissions, he prayed for dismissal of the instant bail application.

6. I have considered the rival submissions of the learned

counsel appearing on behalf of respective parties. As per the case of the prosecution that on 06-06-2019 at about 12-00 noon, the son of the accused-applicant namely Arjun, aged about 6 years was playing and he entered into the land of accused-applicant Mohinder Pal Singh. Mohinder Pal Singh was armed with stick and was beating his son with stick and also saying that Kutteyo Mahahse, he will not allow them to live near his land. The alleged occurrence had taken place in the land/field of accused-applicant and not in the presence of public view as has been held in the above authorities. Keeping in view the facts and circumstances of the case, besides perusing the police record, however, without expressing any opinion on merits of the case, but looking into the facts and circumstances of the case, coupled with the fact that the applicant is not required for custodial interrogation, accordingly, the instant bail application stands allowed. However, the applicant shall abide by the conditions as enumerated under Section 438 (2) Cr.P.C., and he shall join the investigation as and when directed to do so by the police. Police file returned. File of bail application be consigned to the record room after due compliance.

Pronounced:
06-07-2019.

Jatinder Pal Singh Khurmi,
Special Judge, Gurdaspur.
Gurdaspur. (UID No.PB0057)

(Rajinder Sing, Stenographer Gr. -I)
Dictated on :06-07-2019.
Transcribed on :06-07-2019.
checked on : 06-07-2019.
Signed on :06-07-2019.

(Jatinder Pal Singh Khurmi)
Special Judge, Gurdaspur.
UID No.PB0057)

