

**IN THE COURT OF MS. HARINDER KAUR SIDHU
ADDITIONAL SESSIONS JUDGE, FEROZEPUR**

BAIL APPLICATION NO.321 of 25-7-2018.

CNR No.PBFZ010040952018

CIS No. BA 1573-2018.

DATE OF DECISION: 31-7-2018.

1. Des Raj @ Desa aged 45 years son of Darshan resident of village Dulle Wala, Tehsil and District Ferozepur.

2. Sagar aged 17 years son of Des Raj @ Desa resident of village Dulle Wala, Tehsil and District Ferozepur.

----- Bail applicants.

Versus

State of Punjab

-----Respondent.

Application for bail under Section 438(i) Cr.PC.

Present: Sh. Gurajesh Bajaj, counsel for the applicants-accused.
Sh.APS Brar, Additional Public Prosecutor for State.

ORDER

This order finally disposes of an application for pre-arrest bail filed by bail applicants Des Raj @ Desa and Sagar in case FIR No.362 dated 22-12-2017, under Sections 295-A, 379-B, 323, 506 and 34 IPC, registered at Police Station Sadar Ferozepur.

2. Upon notice, the learned Additional Public Prosecutor along with the investigating officer have appeared to represent the

State and contest the bail application. Police records have been produced.

3. It was argued by learned counsel for the bail applicants that the bail applicant Sagar is a juvenile and he has annexed with the bail application the birth certificate of the juvenile who cannot otherwise be arrested. He is required to be produced before the Juvenile Justice Board. Qua bail applicant Des Raj, it was argued that there was a cross case of the present occurrence and rapat no.28 dated 24-12-2017 was registered on the statement of Des Raj @ Desa against the complainant of the FIR. No offence under Section 295-A IPC is made out. There is nothing on the record to allege that the religious belief of any person was hurt. The allegations of catching hold of the beard of the complainant would not attract section 295-A IPC. Even section 379-B IPC is not made out. The allegations of snatching have been leveled with an ulterior motive. The bail applicants are ready to join the investigation. Hence, prayer for grant of bail.

4. On the other hand, the learned Additional Public Prosecutor opposed the bail application on the ground that the bail applicants snatched money from the complainant. Custodial

interrogation of the accused is required. No document regarding the age of the bail applicant Sagar has been produced before the police. He prayed for dismissal of the bail.

5 Appreciating the contentions of the learned Additional Public Prosecutor and the learned counsel for the bail applicants, it transpires that the FIR in the instant case has been registered on the statement of complainant Major Singh son of Swaran Singh in which he had narrated that on 22-12-2017 at about 10-11 AM he along with his father were working in their fields. The bail applicants/accused Des Raj and Sagar came to the complainant along with two unknown persons and their faces were covered but he could identify them. Sagar has a motor cycle Bajaj discover. They asked to purchase potatoes . They brought three bags of potatoes for Rs.600/-. Sagar gave Rs.1000/- to the complainant and when he was returning the change Sagar saw money with Major Singh and he snatched it. When he tried to chase him, Des Raj and two unidentified persons started grappling with him, due to which he sustained injuries and fell down. When he tried to get up Sagar caught hold of him from his beard and pulled. They raised an alarm. His father Swaran Singh and Jaspal Singh son of Niranjana Singh

and Bachitar Singh son of Tehal Singh came to the spot, but the accused fled on the motor cycle.

6 Thus, as per the FIR, there are allegations of the accused having snatched money from the complainant and having pulled the beard of the complainant. Sagar bail applicant is stated to be a juvenile being 17 years of age. Thus, even if the said applicant is a juvenile his bail application under section 438 Cr.PC would not be maintainable since the juvenile cannot be arrested and the concerned police official would have to produce him before the Juvenile Justice Board. The investigating officer is directed to verify the age of the said bail applicant and to proceed accordingly as per law.

7 Qua the bail applicant Des Raj, keeping in view the gravity of the offence and the fact that the police would require time to probe into the matter for which custodial interrogation would be required, the bail application of Des Raj is dismissed. File be consigned to the Record Room.

Pronounced.
Date of order: 31-7-2018

(Harinder Kaur Sidhu)
Additional Sessions Judge,
Ferozepur (UID No.PB 130)

“Parmjit Singh”
Stenographer Grade-II

Present:- Sh. Gurajesh Bajaj, counsel for the applicants/accused.
Sh. APS Brar, Additional Public Prosecutor for State

Heard on the bail application. Vide my separate detailed order of even date, the bail application is dismissed. Bail application file be consigned to the record room.

Pronounced.
Date of order: 31-7-2018

(Harinder Kaur Sidhu)
Additional Sessions Judge,
Ferozepur (UID No.PB 130)

“Parmjit Singh”
Stenographer Grade-II