

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**Crl. Misc. No. M-22839 of 2015
Date of decision : 12.08.2015**

Harinder Singh @ Lucky

..... Petitioner

versus

State of Punjab

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present: Mr. D.S. Pheruman, Advocate
for the petitioner**

Mr. V.P.S. Sidhu, AAG Punjab

**Mr. Ankur Mittal, Advocate
for the complainant**

ANITA CHAUDHRY, J. (ORAL)

The petitioner is seeking anticipatory bail in FIR No. 44 dated 24.05.2015 registered at Police Station Hariana, District Hoshiarpur under Sections 307, 452, 406, 148, 149 IPC and Sections 25, 27, 54, 59 of Arms Act.

A complaint was registered with the police relating to an incident which occurred at 10.05 p.m. The complainant along with his wife and daughter-in-law were in their house. They heard the horn of the car and went out thinking that the son had arrived from Jalandhar. When the complainant opened the gate he saw a car parked in front of his house. Lucky and Binda son of Punjab Singh and three unidentified persons were there. The petitioner is said to have fired a shot with an intention to kill the complainant which did not hit him and went over his head. The other persons also fired

from their gun and thereafter fled from the spot.

Learned counsel for the petitioner contends that no injury was caused to any one and five persons have been named. It was urged that custodial interrogation is not necessary and when recovery is not to be effected then anticipatory bail should be allowed. It was urged that DBBL gun which was recovered from Inderjit, was a licensed gun of the petitioner.

The complainant and State have opposed the prayer and have urged that the petitioner and the other persons who had come were supporters of Punjab Singh against whom there are several cases and there are five FIRs against him. It was urged that even the petitioner has some more FIRs against him and one more FIR had been registered after this incident. It was urged that DBBL gun was recovered from the spot and one accused was caught on the spot and accused had caused mayhem.

Responding to the arguments counsel for the petitioner had urged that Punjab Singh had filed a petition which was decided on 28.05.2015. He urges that the police had come to house of the petitioner and had taken the gun away and which has now been planted in this case.

The incident had taken place outside the house of the complainant. The accused were heavily armed and the petitioner is said to have fired two shots. There are disputes going on between the parties. Punjab Singh's son was also named in the FIR. Inderjit was caught on the spot. The DBBL gun of the petitioner was recovered. The petitioners are not entitled to discretionary relief of

anticipatory bail.

Section 438 Cr.P.C. is an extra ordinary remedy and protection can be granted considering the material and the facts of a given case. The allegations against the petitioners are grave. Custodial interrogation is necessary. It would be difficult to carry out the investigation. It is necessary to curtail his freedom to enable the Investigators to proceed. No fetters can be placed upon the Investigators.

The petition is dismissed.

August 12, 2015

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**(ANITA CHAUDHRY)
JUDGE**