

CRM-M No.13668 of 2016

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**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**C.R.M-M No.13668 of 2016  
Date of Decision : 01.08.2016**

Harbans Singh @ Bansa and another

..... Petitioners

versus

State of Punjab

..... Respondent

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

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Present : Mr. D.S. Malwai, Advocate  
for the petitioners.

Ms. Amarjit Kaur Khurana, Addl.A.G., Punjab.

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**AJAY TEWARI, J. (Oral)**

This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in case FIR No.201 dated 02.08.2012, registered under Sections 307, 34 IPC, but later on challan presented only under Section 338 IPC, at Police Station Faridkot, District Faridkot.

On 25.04.2016 the following order was passed:-

*“Counsel would submit that FIR No.201 dated  
02.08.2012 was registered under Section 307/34 IPC on the*

*complaint of Davinder Singh @ Bittu. The petitioners had joined investigation and the challan is, however, presented under Section 338 IPC.*

*It is argued that the present petition has been filed seeking concession of anticipatory bail on the ground that prosecution has preferred an application stating that there is sufficient evidence on file to proceed against the accused/present petitioners for offence punishable under Section 307 IPC read with Section 34 IPC.*

*Notice of motion, returnable for 01.08.2016.*

*In the meanwhile, petitioners are directed to duly appear before the trial Court on the date already fixed i.e. on 10.05.2016.*

*In the eventuality of the petitioners doing so and even if the application filed by the prosecution for committing the case to the Court of Sessions is allowed, the petitioners would be entitled to ad interim bail subject to the satisfaction of the trial Court. ”*

As per the allegations in the FIR the petitioner No.2 had shot at the complainant side with a 12 bore gun.

Learned counsel for the petitioners has argued that originally the challan was filed under Section 338 IPC on the basis of an inquiry report by SP(D), Faridkot and now the petitioners have been facing those proceedings for the last 2 years and now suddenly an application has

been moved whereby the charge is sought to be framed under Section

307 IPC. It is his contention that in this view of the matter the petitioners should be granted the concession of anticipatory bail because if they are ultimately found guilty they would be liable to suffer whatever punishment is imposed upon them.

Learned Additional Advocate General on instructions from H.C. Jaswinder Singh has accepted the fact that originally the challan was filed under Section 338 IPC and the petitioners have been facing those proceedings for the last 2 years.

In the circumstances, without going into the merits of the case, I do not deem it appropriate to deny the concession of anticipatory bail to the petitioners.

Resultantly, the petition is allowed. The petitioners are directed to appear before the trial Court on 10.08.2016 who shall confirm the interim bail given to them by it.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

**August 01, 2016**  
*ashish*

**( AJAY TEWARI )**  
**JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No