

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27201 of 2016
DECIDED ON: August 08, 2016

HARDIP SINGH

.....PETITIONER..

VERSUS

STATE OF PUNJAB

....RESPONDENT..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Surinder Thakur, Advocate,
for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Section 438 of the Code of Criminal Procedure (for short' "Cr.P.C."), petitioner-Hardip Singh has sought pre-arrest bail in case FIR No. 19, dated 27.04.2016, under Sections 307, 324, 506, 148, 149 and 326 IPC (added later on) and Section 25 and 27 of the Arms Act, Police Station Gardhiwala, District Hoshiarpur, Punjab.

2. Briefly stated the allegations against the petitioner are that he while equipped with pistol accompanied by Kulwant Singh, Baldeep Singh armed with Gandasa, Saranjit Singh armed with Datar and two other unidentified persons, armed with Dangs came at the shop of Darshan Singh situated at bus stand of village Johla. Hardip Singh fired shot from his pistol upon him with an intention to kill, which crossed from the right side to the left side of his abdomen while inflicting injuries on the skin. His companions also caused injuries to him.

3. The contention of learned counsel for the petitioner is that the

allegations levelled against the petitioner are totally false and frivolous. Neither the petitioner was armed with any pistol nor he did cause any injury to the complainant. In fact, the complainant along with 2/3 persons came in front of the house of the petitioner when only female members were present in the house. They hurled abuses to the petitioner's family. As a result of which, a little bit altercation took place between the complainant and the female members of the petitioner's family. Subsequent thereto, in the evening the complainant suffered certain injuries while falling from the motorcycle but by hatching a conspiracy, a false case was got registered against the petitioner and others.

4. Learned counsel for the petitioner further submits that even as per the medico legal report, there are only two injuries on the person of the complainant. Injury No. 1 is the lacerated wound, tissue deep, measuring 7cm x 4cm situated over the right upper quadrant of abdomen whereas injury No.2 is the incised wound 7cm x 4cm situated over the dorso lateral aspect of the left arm. The petitioner has been attributed injury No.1, which is simple in nature. Otherwise also, the said injury is not possible by firing from pistol. Moreover, there was no blackening of the surrounding of injury No.1, which falsify the version unfolded by the complainant. The petitioner is ready to join the investigation and also undertakes to comply with all the terms and conditions imposed by this Court, in case, he is granted the concession of pre-arrest bail.

5. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioner but does not find any legal and factual substance. A specific role has been attributed to the petitioner that he while armed with pistol fired a shot which resulted into infliction of injury on the left side of the abdomen of the complainant. His companions also caused

another injury to him. At this stage, there is nothing on the record to fortify the various submissions made by learned counsel for the petitioner that injury sustained by complainant was due to fall from the motorcycle. From the seat(s) of injuries as depicted in the MLR, it cannot be said that the same are either self-suffered or is the result of fall from the motorcycle. Moreover, altercation has been admitted in between the complainant and the female members of the petitioner's family but no report in respect of the said altercation was made by the petitioner or any female members of his family to the police or any other authority. Recovery of pistol allegedly used by the petitioner during the course of occurrence is still to be effected, which is only possible through his custodial interrogation. Moreover, the discretion envisaged under Section 438 Cr.P.C. is required to be exercised in exceptional cases and the instant case does not fall within the category of exceptional cases, in the circumstances referred to above.

6. In view of the above referred facts and circumstances, this Court is of the considered view that no case is made out for grant of pre-arrest bail.

7. Accordingly, petition stands dismissed.

August 08, 2016
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned:

(√)
Yes/No

Whether reportable:

Yes/No