

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

**Crl. Misc. No.M-21818 of 2018 (O&M)
Date of Decision: September 25, 2018**

Mahesh and another

.....PETITIONER(s).

VERSUS

State of Haryana

...RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Pradeep Goyal, Advocate
for the petitioner (s).

Ms. Dimple Jain, A.A.G. Haryana.

Mr. Iqbal Singh Saggu, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioners in case FIR No.123 dated 27.03.2018 registered for the offences punishable under Sections 148,307,427, 506, 216 read with Section 149 Indian Penal Code and 25 of Arms Act, at Police Station Hodal, District Palwal.

Heard.

As per case of the complainant, on 26.03.2018, petitioner Mahesh and his family members gave beatings to his nephew Vijay and in this regard, an FIR was got registered at Police Station Sadar Palwal. On 27.03.2018, his nephew Sagar son of Vijay had to appear in examination of Physical Science at Senior Secondary Girls School, Hodal at 12.00 noon.

Complainant in his Scorpio Car bearing Registration No.HR-51-AN-0944 along with his grandson Sagar and nephew Dan Singh was going towards Hodal. When they reached near village Aurangabad, Raj Kumar @ Sonu son of Rattan Singh met them, who was on his Bullet motorcycle. Sagar took lift on his motorcycle. Complainant followed them in his car. When they reached near Babri turn, Hodal, a bullet hit from behind and pierced the wind screen of car. Complainant observed that three motorcycles and a white coloured Swift car were following them. One pillion rider had muffled his face and Nawab brother-in-law of Yashpal @ Baghi had fired shot on them with his country made pistol. They reached Godowta Chowk and applied brakes to take the vehicle on wrong side in order to save themselves. Sumit resident of Gopalgarh and other assailants, who were following them fired shots at their vehicle. Due to one shot, tyre of the vehicle of the petitioner got burst and in the meanwhile, a police PCR came nearby and the assailants ran away giving threats.

Learned counsel for the petitioners has argued that this FIR has been got registered due to old enmity between the parties. The complainant had got registered another FIR in which petitioners were found innocent. Raj Kumar @ Sonu, who has been cited as witness has given his affidavit stating therein that he knows nothing about the incident. Nawab, who has been named in the FIR, has been allowed bail by this Court as he had taken the plea of alibi. The petitioners have joined the investigation and their custodial interrogation is no more required.

Learned State counsel has argued that nine bullets fired at the vehicle of the complainant were recovered from the spot. Petitioners though

have joined the investigation but are not cooperative. Four other cases of similar nature have also been registered against them. About the affidavit of Raj Kumar, he submits that the same has been given by him under the pressure of accused party, which is a local gang of the area. Police arrested three accused, who had suffered disclosure statement and named the petitioners as main accused. CCTV footage relied on by co-accused Nawab, has also been sent to Forensic Science Laboratory as tampering of date and time of CCTV footage is suspected.

Learned counsel for the complainant has also shown me the photographs of the vehicle with the marks of bullet fired on it and photographs of the petitioners taken from internet in which they can be seen holding weapons.

It is a case where 9 bullets had been fired on the vehicle of complainant. One of the bullet had flattened tyre of complainant's vehicle but it is alleged that major incident got averted as a PCR arrived at the spot.

Keeping in view the seriousness of the allegations and that the weapons used in the crime are yet to be recovered and custodial interrogation of petitioners is required, I find no reason to exercise the discretionary power of this Court to extend the benefit of anticipatory bail to them.

This petition has no merits. Dismissed.

September 25, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No