

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

**Criminal Misc. No. M-357 of 2018
Date of decision: 29.08.2018**

Jatinder Singh @ Gopi @ Fauji

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. V.K. Sandhir, Advocate
for the petitioner.

Mr. C.L. Pawar, Sr. DAG, Punjab
for the respondent -State.

Mr. Mohit Rampal, Advocate
for the complainant.

Daya Chaudhary, J.

The present petition has been filed under Section 438 Cr.P.C. by petitioner-Jatinder Singh @ Gopi @ Fauji for grant of anticipatory bail in case FIR No.142 dated 05.08.2010 registered under Sections 307, 326, 323, 324 read with Section 34 of Indian Penal Code and Sections 25/27/54/59 of the Arms Act, at Police Station Lopoke, Amritsar Rural.

Learned counsel for the petitioner submits that it was a case of minor altercation and due to party faction, the offence has been converted under Section 307 IPC to make the case more serious. It has come in the inquiry that the gun was fired in the air and no injury was there. It has also come in the inquiry that co-accused, namely Mohinderpal Singh, has falsely been implicated because quarrel took place in front of his house. The

petitioner neither participated in the quarrel nor fired shot from his licenced weapon i.e., 3.15 bore gun whereas the gun was lying deposited with Janta Arms Corporation Chogawan Road, Ajnala since 29.07.2010, which is much prior to the date of incident. The inquiry was conducted by DSP, Sub-Division, Rajasansi and the petitioner was declared innocent in inquiry dated 19.08.2010. Learned counsel further submits that during pendency of the inquiry, one application was filed by the complainant party for reinvestigation. On that application, the inquiry was conducted and report dated 12.12.2011 was submitted, recommending to file cancellation report before the Court as use of .12 bore gun was not proved. Later on, offence under Section 307 IPC was converted to Section 326 IPC vide report dated 25.12.2011. Thereafter, a compromise was arrived at between the complainant and injured-Ranjit Singh, who furnished affidavits dated 19.12.2011. Cancellation report dated 12.12.2011 was filed by the Police before the Area Magistrate. Learned counsel also submits that the complainant filed Criminal Misc. No. M-26633 of 2010 before this Court seeking conclusion of the investigation but after filing of said petition, the affidavits of compromise were furnished. The cancellation report filed by the Investigating Agency was returned for further investigation. Learned counsel also submits that the repeated inquiries were not appreciated by the Director General of Police vide order dated 01.04.2008. Subsequently, after change of Government and due to political pressure, offence under Section 307 IPC was restored and efforts were made to arrest the petitioner. Earlier inquiries conducted were ignored and order for fresh inquiry was passed. In the subsequent inquiry, it was found that no offence was made out under

Section 307 IPC. Even offence under Section 326 IPC was ordered to be deleted. Learned counsel also submits that nothing is to be recovered from the petitioner and he is ready to join investigation. Learned counsel also submits that co-accused, namely Mohinder Singh @ Lali has been released on anticipatory bail by this Court vide order dated 08.12.2017 passed in Criminal Misc. No. M-43130 of 2017. Similarly, co-accused, namely, Jaswinder Singh @ Shinder and Sukhraj Singh, have also been released on anticipatory bail by this Court vide order dated 20.11.2017 passed in Criminal Misc. No. M-40623 of 2017.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and submits that as per allegations levelled in the FIR, the petitioner was armed with .12 bore double barrel gun and the petitioner cannot claim parity with co-accused. The petitioner not only fired shot twice from his gun in order to kill Ranjit Singh but said injured-Ranjit Singh suffered injuries on both his thigh, legs, left arm and both biceps. Learned State counsel also submits that specific allegations are there against the petitioner and the intention was also clear when he fired shot on two occasions.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the contents of the FIR and other documents available on the file.

Notice of motion was issued in the case on 11.01.2018 and interim protection was also granted. Vide order dated 19.03.2018, the petitioner was directed to join investigation and thereafter, again vide order dated 11.05.2018, he was directed to join investigation and to cooperate in

the investigation but still he did not join investigation. It was submitted by learned counsel for the petitioner that a compromise was arrived at between the parties.

No doubt the petitioner joined investigation but recovery of weapon was not effected as the petitioner did not cooperate in the investigation. It has also been submitted by learned counsel for the complainant that the compromise was prepared by the petitioner by forging signatures of the complainant whereas no compromise was arrived at between them.

On the last date of hearing i.e., 06.07.2018, one more but last opportunity was granted to the petitioner to join investigation and to cooperate in the investigation but still he has not cooperated in the investigation and recovery of weapon has not been effected so far.

Accordingly, by considering the nature of offence, the conduct of the petitioner and also the fact that recovery of the weapon used by the petitioner has not been effected, for which the custodial interrogation is required, the petitioner does not deserve concession of anticipatory bail. Hence, the petition being devoid of any merit is, hereby, dismissed.

29.08.2018
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No