

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 40900 of 2017 (O&M)

Date of decision : 24.1.2018

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Dalbir Singh @ Sanju and another

.....Petitioners

vs.

State of Haryana

.....Respondent

**Coram: Hon'ble Mr. Justice H. S. Madaan**

Present: Mr. Sutikshan Sharma, Advocate for the petitioners

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

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**H. S. Madaan, J.**

This petition for grant of anticipatory bail has been filed by petitioners – Dalbir Singh @ Sanju and Parminder Singh, both of them being accused under FIR No. 505 dated 26.9.2017 for offences under sections 398 and 401 IPC and Section 25 of Arms Act, registered at Police Station Thanesar, District Kurukshetra.

Briefly stated facts of the case as per prosecution story are that on 26.9.2017, a Police Party from Police Station Sadar, Thanesar, headed by ASI Mahender Singh was present under Ishargarh bridge on GT road for patrolling, where ASI Mahender Singh received a secret information that Baljinder Singh s/o Labh

Singh caste Jatt Sikh, r/o village Langarchhani, Police Station Saha, District Ambala and Harvinder Singh s/o Sarwan Singh, caste Jatt, r/o village Kallarheri, Police Station Panjokhra, District Ambala, were in the habit of looting vehicles and they were traveling in car No. HR 54 B 6674 Figo, carrying lethal weapons for that purpose. Information being reliable, ASI Mahender Singh asked HC Pardeep Kumar to change to plain clothes and directed him to go to link road from GT road to Ramgarh, intercept the car and then give pre-decided signal. The remaining members of the Police Party were to position themselves at a little distance therefrom. On observing the pre-determined signal given by HC Pardeep Kumar, the remaining members of party rushed nearby and a person was apprehended who was wearing face mask having two holes for sight, whereas the other person was apprehended by HC Jaipal, who was also wearing a face mask having two holes to enable him to see through. The first person so apprehended by ASI Mahender Singh was having a country made pistol in his right hand, in which on being checked was found to contain one live round in the chamber, whereas two live cartridges were found in right pocket of the pant which that person was wearing. Whereas the other person was carrying a plastic packet containing red chilli powder. It was also taken into possession. Two empty shells of the cartridges were found in pocket of the pant. The mask which the first person was wearing was removed and on being asked, he disclosed his name as Harvinder Singh, whereas the other person was also asked to remove his mask and he disclosed his name as Baljinder Singh. The search of the car, in which they were

travelling, revealed that iron nails were there in a plastic bag, besides two pairs of plastic gloves, one tape and two ropes. All the incriminating articles were taken into possession. Formal FIR was recorded. They were interrogated, during the course of which they disclosed that Sanju (petitioner No.1) and his son Parvinder Singh (petitioner No.2) residents of Landa, District Ambala, had delivered to them a country made pistol and live rounds for committing robbery and on 25.9.2017 they had met Sanju and Parvinder Singh and then all four of them have planned to commit robbery. A packet of red chilly powder, two masks, two ropes, cello tape and two pair of gloves, 500 grams of iron nails were procured for use at the time of commission of offence. It was decided that ropes would be used for tying any person, tapes would be used to shut the mouth and if required, red chilly powder would be thrown in the eyes, whereas country made pistol would be used to fire shots. The iron nails were meant to be spread on road to puncture tyres of the vehicles. It was decided that they would gather near *chacha ka dhaba* under bridge near GT Road at 9.00 P.M. Baljinder Singh had got recovered another 32 bore revolver and for live rounds.

Apprehending their arrest petitioners Dalbir Singh and Parminder Singh had approached the court of Sessions for grant of pre-arrest bail but they remained unsuccessful as such they have approached this Court asking for grant of similar relief which is being opposed by the State counsel.

I have heard learned counsel for the petitioners, learned State counsel, besides going through the record.

As regards the contentions of learned counsel for the petitioners that they are not named in the FIR, they were not arrested at the spot, rather their names appeared in the disclosure statement of the co-accused, therefore, they are entitled to grant of pre-arrest bail, such contentions are devoid of any merit. The only purpose of recording the FIR is to set the criminal machinery in motion and the FIR need not contain all the necessary details of the incident. It is only during investigation of the case that the real story gets unfolded. Here too Harvinder Singh and Baljinder Singh had been arrested at the spot and it was only during their interrogation that they had disclosed that they had procured the weapons and ammunition from the petitioners and that the petitioners were also part of the conspiracy to commit the robbery. The petitioners cannot take advantage of the fact that they are not named in the FIR or that they were not arrested from the spot. The statement made by the accused before the police officer may not be admissible during the trial but the same can certainly be taken into consideration during investigation as providing the lead therein.

The allegations against the petitioners are very serious and grave. Their custodial interrogation is definitely required for complete and effective investigation. In case custodial interrogation of the petitioners is denied to the investigating agency, that would leave many loose ends and gaps in the investigation, affecting the investigation being carried out adversely which is not called for. Further more accused Dalbir Singh @ Sanju is stated to be involved in two other cases bearing FIR No. 92 of 2009 and 77 of 2004 under

sections 399/402 IPC and 379 IPC Police Station Barara. Although learned counsel for the petitioners has submitted that he has been acquitted in those cases but even if it may be so, the fact cannot be lost sight of that Dalbir Singh @ Sanju has a past criminal record.

Thus finding no merit in the petition, the same stands dismissed.

**( H.S. Madaan )**  
**Judge**

**24.1.2018**

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Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No