

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CRM-M-3808-2020.

Date of Reserve : 19.02.2020.

Date of Decision: 05.10.2020.

Darshan

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Argued by: Mr. R.S. Dhull, Advocate, for the petitioner.

Mr. Arun Beniwal, Deputy Advocate General, Haryana with
Mr. Sandeep Vashisth, Deputy Advocate General, Haryana.

Mr. Rahul Bhargava, Advocate for the complainant.

Lalit Batra, J.(Oral)

Prayer in the instant petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to petitioner-**Darshan** in case FIR No.224 dated 03.08.2019 under Sections 109 and 302 IPC read with Section 34 IPC and Sections 25 and 27 of Arms Act, registered at Police Station Kalayat, District Kaithal.

Learned counsel for the petitioner *inter alia* contended that the allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urged that neither the petitioner was named in the FIR nor any specific role has been attributed to him in the commission of alleged offence. He further urged that petitioner has been

falsely implicated in the instant case solely on the basis of disclosure statement of co-accused namely Happy @ Kanshi. He further urged that though petitioner has no nexus whatsoever with the alleged offence, even then he is ready to join investigation as and when called upon to do by the Investigating Agency and he may be released on pre-arrest bail.

On the other hand, learned State counsel having assistance of learned counsel for the complainant while opposing instant petition vehemently argued that during the course of investigation, supplementary statement (Annexure R/1) of Asan Kumar-complainant was recorded on 07.08.2019, wherein he had categorically disclosed the name of petitioner in the manner that he was also accompanying the assailants at the time of occurrence. He further urged that on 08.08.2019 during investigation, co-accused namely Vikas @ Vicky and Ravi were arrested and on interrogation, they suffered disclosure statements, wherein they disclosed involvement of petitioner as well in the commission of offence in question especially the fact that petitioner had telephonically called co-accused namely Ravi and Virender and disclosed about their plan. He further urged that on 12.09.2019, co-accused namely Happy @ Kanshi was arrested and on interrogation, he suffered disclosure statement depicting involvement of petitioner as well in the commission of offence in question and specifically disclosed that petitioner was accompanying the assailants at the relevant time. He further urged that on 16.09.2019, Sonu Sharma son of Pawan Kumar (since deceased) had made supplementary statement (Annexure R/5), in terms of which, petitioner was accompanying the assailants at the relevant time. He further urged that during the course of investigation, co-

accused namely Virender Singh @ Kala was arrested and during interrogation on 17.01.2020, he suffered disclosure statement (Annexure R/10) disclosing involvement of petitioner in the commission of offence in question. He further urged that during the course of investigation, call details of mobile phones of co-accused namely Happy @ Kanshi and Ravi (Annexure R/9 colly) were analyzed in scientific manner, in terms of which, there were frequent conversations between them and co-accused namely Sonu and Darshan (present petitioner) before and after the occurrence in question. He further urged that in view of above, custodial interrogation of petitioner is required to reveal the truth and as such petitioner is not entitled for the concession of pre-arrest bail.

Learned counsel for the parties were heard and I have carefully gone through the contents of petition as well as reply submitted at the instance of respondent-State.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly on 02.08.2019 petitioner alongwith co-accused in furtherance of their common intention committed murder of Pawan Kumar, Salesman. Allegedly petitioner was accompanying the assailants at the relevant time. Pre-arrest bail to an accused should be granted in exceptional circumstances as a person couched in comparative safety of the pre-arrest bail would certainly not disclose all the facts within his knowledge. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is

uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement of pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

05.10.2020

jitender

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No