

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

201

CRM-M-11926-2020

Date of decision: 13.07.2020

Varinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Monika Tanwar, Advocate
for the petitioner.

Mr. Manreet Singh Nagra, AAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.268 dated 27.11.2019 registered under Sections 336, 427, 148 and 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 at Police Station City Moga.

The above said FIR has been registered on statement of complainant-Varinder Singh who alleged that on 27.11.2019, he along with Vikas Jindal, Taman Gandhi and Sahil Jindal had gone to Judicial Court Complex, Moga for appearing in case FIR No.185 of 2017 registered at Police Station City Moga. When they were to enter Judicial Court Complex Moga after parking their Scorpio vehicle

bearing No.PB-11CB-0006 in the parking, they saw Rahul, Toni, Gurlabh Singh, Kaka Khera, Matwal Singh, Mangu and Mani standing in the parking who were armed with wooden stick and other weapons. Gurlabh Singh, Kaka Khera, Matwal, Mangu, Mani and 4-5 unidentified persons started throwing brick bats on their car, due to which the window panes of their car were broken. His cousin Harpinder Singh, who was already sitting in the car, drove away the car from the spot. Thereupon Toni, who was armed with 12 bore rifle and Rahul, who was armed with pistol fired shots towards the back side of the car. When they raised alarm, all the accused persons ran away from the spot with their respective weapons.

While issuing notice of motion on 08.05.2020, this Court had granted the interim anticipatory bail to the petitioner with direction to join the investigation.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the present case. Co-accused Govinda @ Rahul and Sanjeev Kumar @ Toni have already been granted anticipatory bail by the Coordinate Bench of this Court vide orders dated 20.02.2020. The petitioner has joined the investigation. Nothing is to be recovered from him and his custodial interrogation is not required.

Learned State counsel, on instructions from ASI Gurtej Singh, has acknowledged that in compliance with order dated 08.05.2020 passed by this Court, the petitioner has joined the

investigation and submitted that his custodial interrogation is not required for effecting any recovery.

It may be observed here that in the present case all the offences except offences under Sections 25 and 27 of the Arms Act, 1959 are bailable. The allegations as to commission of offences punishable under Sections 25 and 27 of the Arms Act, 1959 are made against co-accused Govinda @ Rahul and Sanjeev Kumar @ Toni only and question arises whether arrest of other accused can be said to be on accusation of having committed a non-bailable offence.

Generally speaking, there can be no joint criminal liability for commission of offence punishable under Section 25/27 of the Arms Act, 1959. Therefore, in such a case the question of grant of bail to accused is required to be considered strictly in accordance with the attributions of individual criminal acts to him. Where all the offences attributed to an accused are bailable, then strictly speaking, such accused will be entitled to bail in the eventuality of arrest and question of grant of anticipatory bail will not arise at all. The cause of action for grant of anticipatory bail of apprehension of arrest on accusation of having committed a non-bailable offence will have to be construed accordingly so far as such accused is concerned.

However, in view of the facts and circumstances of the case particularly the fact that the petitioner has joined the investigation and his custodial interrogation is not required and the petitioner will be entitled to grant of bail in either eventuality, I consider final adjudication of the question as referred to above to be unnecessary.

In view of the above, the petition is allowed and order

dated 08.05.2020 granting interim bail to the petitioner is made absolute subject to compliance with conditions enumerated in Section 438 (2) of the Cr.P.C..

13.07.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No