

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

203

**CRM-M-14982-2020
Date of decision: 05.11.2020**

Kaka Singh @ Hardev Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Abhishek Singla, Advocate
for the petitioner.

Mr. Sukhbeer Singh, Asstt. A.G., Punjab
for respondent No.1-State.

Mr. Sherry K. Singla, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

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

The petitioner has filed the present (first) 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.79 dated 06.04.2019 registered under Sections 307 and 323 read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC") and Sections 25 and 27 of the Arms Act, 1959 at Police Station Talwandi Sabo, District Bathinda.

Notice of motion was issued on 12.06.2020 by Coordinate Bench of this Court.

The petition has been opposed by the learned State Counsel in terms of short reply filed by way of affidavit of Narinder

Singh, PPS, Deputy Superintendent of Poilice, Talwandi Sabo, District Bathinda.

The petition has also been opposed by learned Counsel for respondent No.2. However, no reply has been filed by respondent No.2.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for respondent No.2 and have gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case because of previous dispute. Gurjant Singh brother of the petitioner had earlier got FIR No.9 dated 20.01.2019 registered under Sections 457 and 323 read with Section 34 of the IPC at Police Station Talwandi Sabo, District Bathinda against respondent No.2-Sukhwinder Singh. Sadhu Singh another brother of the petitioner had got registered DDR No.40 dated 28.02.2019 under Section 323 read with Section 34 of the IPC against respondent No.2. The petitioner has clean antecedents and is not involved in any other case. The question as to whether the alleged injury was on account of gun shot would be a matter of trial. The FIR has been registered with undue, unreasonable and unexplained delay of 2 days. The present FIR is a counter-blast to previous criminal proceedings. The petitioner is ready to join the investigation and his custodial interrogation is not required.

On the other hand, learned State Counsel and learned Counsel for respondent No.2 have submitted that the petitioner fired the shot which hit respondent No.2-Sukhwinder Singh in the eye. The

injury was dangerous to life. Besides that due to the injury caused respondent No.2-Sukhwinder Singh has also lost one eye. Custodial interrogation of the petitioner is required for recovery of the fire arm. In view of gravity of accusation, the quantum of sentence which the conviction may entail and other related factors, the petitioner does not deserve the grant of anticipatory bail and the petition may be dismissed.

The Courts have been granted power to grant anticipatory bail to protect against motivated criminal litigation instituted at the instance of unscrupulous litigants animated by malice or political vendetta. Grant of anticipatory bail is an extra-ordinary remedy and is not, therefore, intended to be granted in every case. Number of factors including nature and gravity of the offences, quantum of sentence, likelihood of the accused absconding, intimidating or influencing the witnesses or tempering with the evidence or committing similar offences have also to be taken into consideration.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner making out prima facie case, the fact that the injury caused to respondent No.2-Sukhwinder Singh which has been declared to be dangerous to life and resulted in loss of his one eye is attributed to the petitioner, also that custodial interrogation of the petitioner is required for recovery of the fire arm, quantum of sentence which conviction may entail, consequent apprehension of the petitioner fleeing from justice or tempering with evidence or criminally intimidating the prosecution witnesses but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner does not deserve the grant of

anticipatory bail.

In view of the above, the petition for grant of anticipatory bail to the petitioner is hereby dismissed.

05.11.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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