

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15262-2019
Date of decision-14.01.2020

Mantar Singh Brar

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. R.S.Rai, Senior Advocate with
Mr. Deepinder Brar, Advocate for the petitioner.

Mr. Gaurav Garg Dhuriwala, Senior DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.129 dated 07.08.2018 under Sections 307, 323, 341 and 148 read with Section 149 of Indian Penal Code, 1860 (Sections 218, 201, 34 and 120-B IPC added later on) and Section 27 of Arms Act, 1959 registered at Police Station City Kotkapura, District Faridkot. The petitioner apprehended his arrest at the hands of Police, in the above FIR.

Learned counsel for the petitioner has invited the attention of the Court to the order dated 03.04.2019 whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioner. The said order reads as under:-

“Learned senior counsel appearing on behalf of the petitioner contends that the petitioner has been indicted

in case FIR No.129 dated 07.08.2018 under Sections 307, 323, 341, 148 and 149 IPC and Section 27 of the Arms Act registered at Police Station City Kotkapura, District Faridkot (later on added Sections 218, 201, 34 and 120-B IPC), recorded on the statement of complainant-Ajit Singh. A perusal of the FIR reveals that the alleged occurrence took place on 13.10.2015 when a large number of persons gathered to register their protest to the alleged incident of sacrilege. It was narrated by the complainant that police had taken action against the crowd and used force against them. Allegedly the complainant had suffered a gun shot injury on 13.10.2015, however, no statement was given by him previously before the police.

Learned senior counsel further contends that in respect of this occurrence a case FIR No.192 dated 14.10.2015 already stood registered for the offences punishable under Sections 307, 353, 332, 333, 323, 382, 435, 283, 120-B, 148 and 149 IPC; Section 25/54/59 of the Arms Act and Sections 3 and 4 of the Prevention of Damage to Public Property Act. According to him, the offences in the FIR No.192 dated 14.10.2015 reveal that crowd was indisciplined and turned unorderedly and it was need of hour to control the same with police action. According to the learned senior counsel, 47 police officers had suffered injuries at the hands of the mob. The complainant is stated to be one of the members of the said large crowd, who had suffered this gun shot injury. It is further pointed out that the statement of the complainant was recorded by the commission of enquiry and after the conclusion of the same, the petitioner was not indicted. According to him, the FIR No.129 dated 07.08.2018 is highly belated and registration of the same on the same set of allegations for which previous FIR already stood recorded reflects the mala fide on the part of the complainant. It is also pointed out that the petitioner had been the member of the Legislative Assembly previously for three terms, who is not named in the FIR.

Notice of motion for 23.04.2019.

In the meanwhile, petitioner shall join the investigation and would come present as and when called for and in the event of arrest, he shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438 (2) Cr.P.C.”

Learned counsel for the petitioner further contends that in deference to the said order, the petitioner submitted himself before the Police and joined the investigation. According to him, the petitioner cooperated with the Police Authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel who is assisted by DSP Vibhore Kumar has vehemently opposed the prayer on the ground that considering the nature of the offence, custodial interrogation of the petitioner is necessary. He submits that since the petitioner was protected therefore, to unravel the truth, his custody is required. However, it is not disputed by learned State counsel that after completion of investigation, final report was submitted on 23.05.2019. After further investigation, the supplementary report has also been submitted on 06.06.2019 against the same accused.

At this stage, learned Senior counsel for the petitioner submits that investigation of the case is complete, therefore, the prayer on behalf of learned State counsel that the custodial interrogation of the petitioner is required, is without any substance. Learned Senior counsel contends that till date no application was ever moved by prosecution at any stage seeking custody of the petitioner for investigation.

After hearing learned counsel for the parties, this Court finds that in the given facts and circumstances of this case, particularly the fact that the investigation of the case is complete, this is not a fit case for custodial interrogation of the accused.

Resultantly, the petition is allowed and the interim bail granted by this Court vide order dated 03.04.2019 is made absolute.

(MANOJ BAJAJ)
JUDGE

14.01.2020
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No