

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

CRM M-16181 of 2020 (O&M)

Date of Decision: August 05, 2020

Nishan Singh Khera		Petitioner
	Versus	
State of U.T. Chandigarh		 Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. G.S. Ghuman, Advocate
for the petitioner.

Mr. Rajiv Vij, AAP, for U.T. Chandigarh.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through video-conferencing on account of lockdown due to outbreak of pandemic COVID-19.

Petitioner Nishan Singh Khera is accused in case bearing FIR No. 0005 dated 11.01.2020 under Sections 147, 148, 149 and 307 IPC and Sections 25, 27, 54 and 59 of the Arms Act P.S. South Sector 34, Chandigarh has come up in this first anticipatory bail application under Section 438 Cr.P.C.

The present case was got registered on the statement of complainant Jagtar Singh @ Jassi, wherein, he

alleged that on 11.01.2020 around 10.40 night he alongwith his friend Samar Bhat had gone to meet Lovepreet @ Ebal, who had suffered a head injury and they have taken him to Government Medical College and Hospital in Sector 32 Chandigarh, where, the doctors admitted him. The next morning at 11.00 a.m. while the complainant and his friend were at the hospital, five boys came who were armed with pistols etc. and who were subsequently to be identified the accused and who fired from their weapons at the complainant hitting one Gurdayal Singh passer-by and, thereafter, giving repeated fires, the accused fled in a car bearing registration No. PB-11-AV-0021 owned by the petitioner.

Shri G.P.S. Ghuman, learned counsel for the petitioner *inter alia* contends that the petitioner is a young boy and no specific role is attributed to him in the commission of the offence and the only allegations against him that he happens to be the registered owner of the vehicle. The counsel has submitted that neither the petitioner has been identified nor named in the FIR and nothing is to be recovered and has sought to place reliance on compromise deed dated 18.05.2020, whereby, the parties have settled their dispute (Annexure P-2).

Mr. Rajiv Vij, learned Public Prosecutor for U.T.

Chandigarh has forcefully opposed the bail on the multifarious grounds that the accused have a previous history of enmity and number of skirmishes had earlier taken place between them, for which, one of the injured was got admitted in the hospital, where the present incident had again occurred due to this previous history. Citing law and order situation, the counsel has sought that specific role is attributed to the petitioner for facilitating the arrival and fleeing by the accused/petitioners and, therefore, his custodial interrogation is essential in recovering the vehicle as well as the weapons.

Going through the submissions a plain reading of the contents of the FIR are strongly suggestive that the accused as well as the complainant side are young boys who have formed gangs and are trying to create an atmosphere of threat to society to lay their claim of supremacy and bravado in the society. There are allegations of use of firearms at the hospital and a number of fires have hit one of the cars including a passer-by accompanied by recovery of number of empties at the place. What is apparent from the compromise Annexure P-2 that the parties have sought to stifle the investigations through such means. The tricity which was known for its academic achievements is now being rapidly turned into a hostile city and this Court is perturbed over the manner in which such goons

trotting with firearms pervade the tricity and gangsters have come to settle here and such steep number of such incidents in the area is a strong circumstance for this Court to take a strong view of the incident and finding no merits, in view of the principle that provisions of Section 438 Cr.P.C. are to be sparingly used in the rarest of rare cases, this Court dismisses the present bail application.

August 05, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

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