

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

CRM-M-20755-2020 (O&M)

Date of decision: 11.11.2020

Krishan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Aman Pal, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Krishan, aged about 24 years, an accused in FIR No.431 dated 29.05.2020, for offences under Sections 341, 386, 506 and 34 IPC, registered with Police Station Model Town, Panipat.

Briefly stated facts of the case as per prosecution story are that, criminal machinery in this case was set into motion by complainant Kapil son of Om Prakash, resident of Saini Colony, near katcha Kabaddi Gate, Panipat who in the written complaint submitted by him to the police sought taking of legal action against Krishan son of Dharampal, Sanjay Kadiyan @ Kala, Rakesh Rod, Amit Pandit and 3-4 other mischievous type of persons who illegally smuggle liquor and attempted to kill the complainant and telephonically threatened him to leave the city; inter alia

in the complaint, the complainant contended that he is a liquor contractor having such shops at Kutcha Kabaddi Gate and Jain Chowk in the name of his partner Chand; on 24.05.2020, at about 7.00 PM, an unknown boy was smuggling liquor illegally in Saini Colony near Delhi-Ambala railway line; when the complainant stopped him for doing so, he started running and entered house of Sanjay Kadiyan @ Kala at Hari Nagar, Panipat, raising hue and cry; Sanjay Kadiyan @ Kala along with Rakesh Rod and Amit Pandit and some of their criminal friends came out of house of Sanjay Kadiyan @ Kala, carrying illegal weapons in their hands; they confronted the complainant and started abusing him; they rushed towards the complainant with their illegal weapons; the complainant ran away from the spot and could save his life with difficulty; he had informed his partner Chand telephonically, who was out of station at that time and Chand stated that on returning to Panipat, he would sort out the matter amicably; thereafter, on the same day, at about 11.01 hrs, a mobile call was received from mobile No.9124000004 on mobile phone of Anil, a friend of the complainant while that mobile phone was with the complainant; the caller introduced himself as Krishan (present petitioner), telling the complainant that the entire business of illegal liquor belongs to him and illegal liquor will be sold in the area and rather, he threatened the complainant that he should close his liquor shops, leave Panipat, otherwise, the complainant and his partner in the liquor business Chand would face serious consequences; the complainant is a heart patient, having suffered heart attacks twice; when the complainant came to know that Krishan is a professional criminal against whom several serious

criminal cases of murder etc. are registered, then the complainant got unwell out of terror and remained at home for two consecutive days; on 26.05.2020 at 8 O' clock, when the complainant was going towards his liquor shop on a motorcycle at Jain Chowk, then three unknown criminals with covered faces came there on a bike and intercepted the complainant, threatening him with a pistol, saying that if the complainant had not understood what their brother Krishan had explained, then they would shoot the complainant in his shop and if the complainant and his partner were to work there, then, they shall have to give fixed monthly amount to Krishan bhai, saying that they left the spot; the complainant felt threatened and informed the police in that regard; after registration of the formal FIR, the investigation in the case started. Apprehending

his arrest in this case, petitioner had approached the Court of Sessions at Panipat, seeking pre-arrest bail. However, his such petition which was assigned to Addl. Sessions Judge, Panipat, was dismissed by that Court, vide order dated 14.07.2020. Feeling aggrieved, the petitioner has knocked at the door of this Court, praying for grant of similar relief, which request is being opposed by learned State counsel.

I have heard learned counsel for the parties besides going through the record and I find that no case for grant of pre-arrest bail to the petitioner is made out. Pre-arrest bail is a discretionary equitable relief which is to be granted by the Court in very exceptional cases and not in routine. This provision is meant to protect the innocent persons from harassment and inconvenience and not to work as a shield for the criminals, so as to enable them to avoid interrogation by the investigating

agency. Admittedly, custodial interrogation of a person accused of committing crime is more elicitation oriented because a person couched in comparative safety of pre-arrest bail would certainly not come out with all the inculpatory facts within his knowledge. The petitioner is said to be a habitual criminal, involved in several criminal cases. The details of which being are as under:-

1. FIR No. 799 dated 12.07.2017, registered under Sections 148, 149, 302, 120-B of the IPC and Section 25 of Arms Act, with Police Station City Panipat.
2. FIR No. 438 dated 06.09.2015, registered under Sections 148, 149, 302, 120-B of the IPC and Section 25 of Arms Act, with Police Station Sadar Panipat.
3. FIR No. 987 dated 15.09.2017, registered under Sections 323, 325, 34, 379-B and 506 of the IPC with Police Station City Panipat. .
4. FIR No. 473 dated 08.01.2011, registered under Section 392 IPC, with Police Station Chandni Bagh, Panipat.
5. FIR No. 145 dated 19.02.2014, registered under Section 304-B IPC, with Police Station City, Panipat.
6. FIR No. 196 dated 05.07.2020, registered under Section 25 of Arms Act, with Police Station Industrial Sector-29, Panipat.

Though, according to learned counsel for the petitioner, the petitioner has been acquitted in cases FIR No.145 dated 19.02.2014, FIR No.438 dated 06.09.2015 and FIR No.987 dated 15.09.2017 but the acquittal in such cases does not mean that he has been given clean chit. Since as per criminal jurisprudence applicable to our judicial system, the prosecution is required to prove its charge against the accused beyond a

shadow of reasonable doubt, many a times, the criminals, which include those who have indulged in heinous crime also, manage to get scot-free for technical reasons on account of faulty investigation in some cases, since the investigating agency fails to collect proper evidence to connect the accused with the crime and many a times, the influential and hardened criminals manage to influence the vital prosecution witnesses, who turn hostile during the trial, not supporting the prosecution story, resultantly, criminal escape conviction. The acquittal in some of the cases does not mean that the shady criminal post of a criminal gets washed away. The petitioner is involved in cases of heinous crime like murder, snatching, attempt to murder, dacoity found in possession of illegal weapons etc. His having been granted regular bail in some of the cases also does not go to show his innocence in those cases. Such type of criminal is certainly not entitled to discretionary equitable relief of pre-arrest bail. Furthermore, the allegations against the petitioner which have been reproduced above, are very grave and serious of running a bootlegging racket. His custodial interrogation is necessary to find out as to from where he has been procuring the liquor, who are his customers and who are the persons employed by him for distribution of the liquor in the area etc. In case, the custodial interrogation of the petitioner is denied to the investigating agency that shall result in causing many lacunae, loopholes and gaps in the investigation, adversely affecting the investigation, which is uncalled for. Though, in this case, the petitioner was granted bail with a direction to join the investigation and as stated by learned counsel for the petitioner, he has joined the investigation but learned State counsel has

contended that the petitioner has not rendered full cooperation to the investigating agency and has not give proper replies to many material questions. Therefore, his custodial interrogation is necessary for proper and complete investigation.

Keeping in view the above facts and circumstances of the case, no case for grant of pre-arrest bail to the petitioner is made out. The petition is dismissed accordingly.

11.11.2020
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(H.S. MADAAN)
JUDGE

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