

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

CRM-M-26818-2020

Date of decision:-9.9.2020

Rajiv Kumar

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Jivtesh Singh Nagi, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Rajiv Kumar, aged 25 years, an accused in FIR No.190 dated 9.6.2020 for the offences under Sections 307, 324, 427, 148, 149 IPC and 25 and 27 of Arms Act, registered with Police Station City, Patti, District Tarn Taran.

Briefly stated, the facts of the case as per the prosecution story are that, criminal machinery in this case was set into motion by complainant Dhira Singh son of Pal Singh, resident of Ward No.2,

Locality Sansiya Wala, Police Station Patti, aged about 26 years, who in his statement made to the police stated that on 8.6.2020 at about 8/8:30 p.m., he was going on his motorcycle make Hero Deluxe and had crossed the street of Parminder Singh, Lambardar at Kandiyala Road, which is close to Mazaar of Peer Baba, then in the light from electricity bulb, he observed Sunny and Rajiv Kumar (present petitioner) armed with pistols, Paras armed with a double barrel gun, Jinder, Gopi and Raj Kumar armed with sickles, Bhima armed with datar, Baga armed with sword (kirch), Bheja armed with baseball bat, Sahil empty handed along with 4-5 unidentified persons coming on separate motorcycles; Gopi raised a lalkara that complainant should be taught a lesson for helping Sukho wife of Mukhtiar Singh in a dispute between Sukho and Sunny; hearing that Rajiv Kumar (present petitioner) fired a shot from his pistol aiming it at the complainant with an intention to kill him; the bullet passed near his ear; the complainant was terrified and he left his motorcycle at the spot and ran towards his house; the assailants followed him; the complainant ran behind the house of Bachhani, then Bheja attacked him with his baseball bat hitting the complainant on right biceps; Gopi gave a datar (sickle) blow to complainant hitting him on backside of his right shoulder; Sunny fired a shot at the complainant from his pistol with an intention to kill the complainant hitting him on right knee; the complainant fell on the ground in the street and raised an alarm, then all the assailants left the spot along with their respective weapons on their motorcycles; before doing that Jinder Singh along with 4-5 unidentified persons set fire to petrol pipe of motorcycle of the complainant, which had fallen on the ground. The

injured was taken to Civil Hospital, Patti where he was medically treated and medico-legally examined. After registration of the FIR, the investigation in the matter was started.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Tarn Taran vide order dated 11.8.2020 As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition is given to respondent – State. Mr.J.S. Ghuman, DAG, Punjab has put in appearance on behalf of respondent – State and accepts notice on behalf of respondent – State.

I have heard learned counsel for the parties besides going through the records.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

The allegations against the petitioner are very grave and serious that he along with his co-accused, who were armed with deadly weapons formed an unlawful assembly and they had assaulted the complainant firing shots at him with an intention to kill him and causing injuries to him with their respective weapons. As per the prosecution story, the petitioner was having a pistol at that time from which he had fired at the complainant but fortunately the bullet got passed his ear. Such acts of the petitioner cannot be taken lightly and deserve to be viewed

with all the seriousness. If people indulge in such type of criminal acts taking law into their hands firing shots at others to settle their scores that would result in chaos and unrest in the society. It is to be ensured that law of the land is enforced strictly and there is no rule of law of jungle in the society. The petitioner having been specifically named in the FIR and specific criminal acts attributed to him, which are of very grave and serious type, does not deserve concession of pre-arrest bail.

The petitioner comes out to be a habitual criminal having been involved in several other criminal cases, the details of which he himself has given in para No.10 of the petition i.e. FIR No.143 dated 25.8.2019, registered with Police Station City, Patti, Tarn Taran, FIR No.92 dated 15.6.2019, registered with Police Station City, Patti, Tarn Taran, FIR No.150 dated 1.9.2019, registered with Police Station City, Patti, Tarn Taran.

Learned State counsel has contended that five FIRs registered against the petitioner are with regard to heinous crime.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation and to effect the recovery of weapon used in the incident and to find out under what circumstances the

incident was planned and executed and who are the people involved therein and other connected details. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

9.9.2020

Brij

(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**