

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

CRM-M-34110-2020

Date of decision:-28.10.2020

Surinder

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Naveen Sheokand, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

Mr.Rajesh Nain, Advocate
for the complainant.

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 – Surinder, aged 45 years, resident of village Balu, an accused in FIR No.283 dated 29.9.2020 for the offences under Sections 307 IPC and 27 of Arms Act, registered with Police Station Kalayat, Kaithal.

Briefly stated, the facts of the case are that criminal machinery was set into motion by complainant – Deepak son of Mahenderpal, resident of village Balu, Tehsil Kalayat, District Kaithal, who in the written complaint submitted by him to the police on 29.9.2020 stated that on 27.7.2020 at about 11:00 p.m., he along with his father

Mahenderpal had gone to their fields to start their newly installed tubewell on account of the fact that electricity was to be supplied that week from 11:00 p.m. to 7:00 a.m.; in the meanwhile his paternal uncle Surinder (present petitioner) came there and started abusing them asking them not to start tubewell; he threatened to kill the complainant and thereafter left; after some time on spotting his said uncle Surinder coming on his Scooty, feeling threatened, the complainant tried to run away from his fields in his car but was unsuccessful due to the road there being very narrow; Surinder took out his revolver and pointed it out at the complainant; the complainant caught hold of hand of Surinder to save himself; a shot was fired from the revolver; however, the complainant survived from being hit; he jumped into the paddy fields; Surinder fired on the complainant again with the intention to kill him but complainant managed to escape. The complainant informed the police. On the basis of such complaint, formal FIR was registered.

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, Kaithal vide order dated 22.10.2020. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition is given to respondent – State. Mr.Tanuj Sharma, AAG, Haryana has put in appearance on behalf of respondent – State and accepts notice on behalf of respondent – State. Mr.Rajesh Nain, Advocate has also put in appearance on behalf of the complainant.

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

The allegations against the petitioner are very grave and serious of firing shots on his real nephew, the complainant. Though the complainant had a miraculous escape and was not hit by any of the bullet so fired but the incident is to be taken with all the seriousness. The petitioner cannot take advantage of the fact that the complainant had not got injured in the incident. It was good-luck and destiny of the complainant that he escaped being hit by the bullets though there was no lack of effort on the part of the petitioner to cause fire-arm injuries to him. The delay in reporting the matter to the police cannot be given undue importance at this stage, while considering the case of petitioner for grant of pre-arrest bail.

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.

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 the

fire-arm and to find out as to how the incident was planned and executed.

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.

28.10.2020

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No