

101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40253-2020
Date of Decision: 04.12.2020

DEV ASHISH

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: Hon'ble Mr.Justice Deepak Sibal

Present: Mr.Vikas Bishnoi, Advocate for the petitioner
Mr.Kuldeep Tewari, Additional AG Haryana

Deepak Sibal, J. (Oral)

Case taken up through Video Conferencing.

The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.632 dated 10.11.2020 registered under Sections 323, 285, 341, 506 IPC and Section 25 of Arms Act, 1959 at Police Station Azad Nagar, District Hisar.

Briefly stated, the case of the prosecution is that on 23.10.2020 the complainant and his friend were returning home on their motorcycle late at night; at that time the petitioner and his co-accused who were in a Swift car/ motorcycles and were armed with lathis (sticks)/ iron rods/ fire arms tried to stop them; the complainant and his friend tried to escape the attack on their motorcycle; the petitioner and his co-accused then fired three shots on the complainant and his friend which luckily did not hit them; the complainant recognized three persons which included the petitioner; the police was immediately called by the complainant from his mobile phone

but to no avail; the complainant then went to the Azad Nagar police station and presented a formal complaint and the police then went to the spot and got recovered an empty bullet shell which was taken into possession by them.

Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the case for the reason that sometime ago the petitioner's uncle had lodged a FIR against the complainant with regard to the complainant having given grievous injuries to the petitioner; there is a delay of 16 days in lodging of the FIR; even if the contents of the FIR are taken as gospel truth, though vehemently denied, no injury has been caused to the complainant and the petitioner is ready and willing to join investigation as and when called by the investigating agency.

Learned State counsel opposes the grant of anticipatory bail to the petitioner on the ground that the petitioner along with his co-accused who were armed with fire arms/ iron rods/ lathis (sticks) wanted to waylaid the complainant and his friend to give them severe beatings/ kill them; the petitioner had the motive as at an earlier point of time the complainant had beaten him up; the petitioner is a habitual offender against whom two criminal cases including a case of extortion are pending; preliminary investigation resulted in the recovery of an empty bullet from the site of occurrence giving credibility to the complainant's story and recovery of fire arms / other weapons/ vehicles used in the crime is to be made from the petitioner and his co-accused.

The above facts reveal previous enmity between the petitioner and the complainant; the petitioner was duly identified at the time of the alleged attack by him and his co-accused; admittedly, the petitioner is facing

trial in two FIRs including one for extortion and while on bail in those cases has allegedly committed the crime in question thus misusing the concession of bail granted to him earlier; his antecedents are not good; preliminary investigation has resulted in the recovery of an empty bullet shell from the spot of occurrence giving prima-facie credibility to the complainant's version; recovery of weapons/ motor vehicles allegedly used in the crime is to be made and the names of other co-accused who were allegedly with the petitioner at the time of the occurrence is to be deciphered.

In view of above this Court is of the opinion no case is made out for the grant of anticipatory bail to the petitioner.

Dismissed.

It is clarified that the above observations have been made by this Court to decide the present petition seeking anticipatory bail in which investigation is still going on and therefore these observations be not construed as opinion on the merits of the case.

04.12.2020

gk

(Deepak Sibal)
Judge

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