

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

**CRM-M-1219 of 2021**

**Date of Decision: 23.08.2021**

Desu @ Daljit

Petitioner

Versus

State of Punjab

Respondent

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Piyush Sharma, Advocate for the petitioner.  
Ms. Monika Jalota, DAG, Punjab.

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**AVNEESH JHINGAN, J (Oral):**

The matter is taken up for hearing through video conference due to COVID-19 situation.

This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in FIR No. 153 dated 4.8.2020, under Sections 307/379-B/323/341/506/148/149 IPC and Sections 25 & 27 of the Arms Act, 1959 registered at Police Station Sadar Ferozepur, District Ferozepur.

The FIR was registered on the basis of complaint by Jagjit Singh. As per the allegations, on 3.8.2020 the complainant and labourer-Shanker were going to the fields in village Basti Dabian Wali. On reaching near Government godown, six or seven persons on three motor cycles surrounded them. Laddi was armed with Kappa, Desu (petitioner) and Sarwan were armed with baseball. All these three accused were residents of Peer Ke Ahmad Khan and earlier known to the complainant. Two unidentified persons were also with them and the complainant claimed that he can identify them. One of the accused was carrying a pistol, a fire was shot which hit the cousin of the complainant.

Considering the contention of learned counsel that the allegations were against unidentified persons who were armed with sharp edged weapons and fire arm, the petitioner was granted interim bail on 12.1.2021.

On 8.2.2021, learned counsel for the State informed the court that the petitioner though joined the investigation but is not co-operating. The petitioner was given another opportunity to join the investigation and to co-operate.

Learned counsel for the State on instructions submits that though the petitioner joined the investigation and but is not co-operating. He is not disclosing the details of the unidentified persons accompanying the petitioner on the date of incident.

Learned counsel for the petitioner submits that the petitioner has joined but has no knowledge of the details of the unidentified persons as he was falsely implicated and was not present at the time of incident.

At this stage, learned counsel for the State submits that anticipatory bail filed by co-accused Sarabjit Singh was dismissed by this court as he was not co-operating and not getting the weapon recovered.

The grant of anticipatory bail is a discretionary power with the court, to avoid unnecessary custody of the accused. It is a settled position that the accused joining the investigation clothed with protection of pre-arrest bail is not as effective as the custodial interrogation. The petitioner is specifically named in the FIR. As per allegations, the petitioner was accompanied by other co-accused. At the initial stage of argument, the contention was that though the petitioner was named in the FIR the allegations of injuries are against the unidentified co-accused. Now the contention raised is that the petitioner was not present at the spot. Suffice to say, changing stands taken by the petitioner are an indicator that custodial interrogation is required. The interim protection granted on 12.1.2021 is vacated.

The petition is dismissed.

**[AVNEESH JHINGAN]**  
**JUDGE**

**23<sup>rd</sup> August, 2021**

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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable         | : | Yes / No |