

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

CRM-M-1597-2021

Date of decision:-28.1.2021

Jagdeep Singh @ Deepu

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Vikas Kumar, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

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 – Jagdeep Singh @ Deepu, aged about 28 years, resident of Shakti Nagar, Barnala Road, Sirsa, an accused in FIR No.424 dated 18.12.2020, under Section 25 of Arms Act, 1959, registered with Police Station Civil Lines, Sirsa.

Briefly stated, the facts of the case as per the prosecution story are that on 18.12.2020, a police party was present in the area of Delhi culvert, Hisar Road, Sirsa in connection with patrolling, when it received a secret information that Dildar Singh @ Dara and Amarjeet Singh @ Amma would come on Scooty No.HR24Y-3774, carrying a large

number of illegal weapons in a street near Police Post, Khairpur. Accordingly a picket was laid and after some time scooty in question was intercepted, which was being driven by Dildar Singh @ Dara with Amarjeet Singh @ Amma as pillion rider. Personal search of both the riders was carried out, which resulted in recovery of a country-made pistol of .315 bore along with 9 live cartridges of the same bore from Amarjeet Singh @ Amma and country-made pistol of .315 bore from Dildar Singh @ Dara. A bag being carried by Daildar Singh @ Dara was found to contain 7 pistols of .315 bore, 2 pistols of .22 bore and 2 pistols of .32 bore. The accused were accordingly arrested in this case. The recovered weapons and cartridges were taken into police possession. Formal FIR in the matter was recorded and investigation in the case started. During the course of interrogation of accused Dildar Singh @ Dara, he stated that he is involved in several criminal cases and in order to take revenge from opposite party, he wanted to raise a criminal gang for which he required illegal weapons. He had discussed the matter with his friend, present petitioner Jagdeep Singh @ Deepu and co-accused Avtar Singh @ Ladi. Petitioner Jagdeep Singh @ Deepu told Dildar Singh @ Dara that his relative Boota Singh of Uttrakhand help him in purchasing illegal pistols. Thereafter, the present petitioner Jagdeep Singh @ Deepu accompanied by Dildar Singh @ Dara Singh and Avtar Singh went to Sitarganj (Uttrakhand) in the month of October, 2020 and purchased two pistols as sample. Subsequently, in the last week of October, 2020, petitioner Jagdeep Singh @ Deepu along with accused Didar Singh @ Dara Singh visited Punjabi Hotel of Boota Singh at Sitarganj, where Boota Singh

introduced them to his friend Ishtayak Ahmad. The pistols and cartridges were purchased by them. Some of them had been recovered from the possession of Dildar Singh @ Dara and Amarjeet Singh @ Amma, whereas three pistols along with some cartridges were in possession of present petitioner Jagdeep Singh @ Deepu. In that way, the petitioner was nominated in this case.

Apprehending his arrest in this case, the present 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 Sessions Judge, Sirsa vide order dated 6.1.2021. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief.

Notice of the petition was issued to respondent – State. Mr. Tanuj Sharma, AAG, Haryana has appeared on behalf of respondent – State and accepts notice on its behalf. He opposes the petition.

I have heard learned counsel for the parties besides going through the records and I find that the petition is deemed for failure.

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 arrest and custodial interrogation.

Here the allegations against the petitioner are very grave and serious that he had helped his co-accused in procuring illegal arms and ammunition so as to help his co-accused Dildar Singh @ Dara in raising a gang to take on another gang and he himself retained three pistols and

some cartridges out of those illegal arms and ammunition purchased from Sitarganj.

The arguments raised by learned counsel for the petitioner are that the petitioner is not named in the FIR and his name cropped up during the interrogation of co-accused, which is not admissible in evidence are not much helpful to the petitioner since FIR is not a substantive piece of evidence and its only purpose is to set the criminal machinery in motion. FIR is often lodged in hurry and it may not contain the minute and precise details of the incident. The FIR can be got registered by a person, who may not be an eye-witness of the same. It is only during investigation of the case that police can come to know about the culprit and criminal, who had committed the crime. Merely for the reason that accused is not named in the FIR does not result in causing any dent in the prosecution story.

The disclosure statement of co-accused can certainly be taken into consideration for providing lead in investigation and even during trial it is admissible under Section 30 of the Indian Evidence Act.

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 a must not only to effect the recovery of arms and ammunition but to unfold the complete story as to from which person the illegal weapons and cartridges were

procured, the money paid to the supplier, the purpose of purchase of weapons and ammunition. 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 the petition is doomed for failure and is dismissed accordingly.

28.1.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No