

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

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CRM-M-3370-2021.

Date of Decision: 17.08.2021.

Bhupinder Singh

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Ranjan Lakhanpal, Advocate for petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This second petition under Section 438 Cr.P.C. has been moved by petitioner-Bhupinder Singh for grant of pre-arrest bail in case FIR No.30 dated 24.02.2020 under Section 307 IPC read with Section 34 IPC and Sections 25 and 27 of Arms Act (offence under Section 120-B IPC added lateron), registered at Police Station Majitha Road, District Police Commissionerate, Amritsar.

In compliance of order dated 27.07.2021, status report dated 09.08.2021 by way of affidavit of Dr. Sukhchain Singh Gill, IPS, Commissioner of Police, Amritsar City, alongwith Annexures, already filed on behalf of respondent-State, is taken on record.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that petitioner was not named in the FIR. He further urges that even otherwise fire-arm injury on the person of complainant/injured has been attributed to pillion rider of the scooty. He further urges that there was no occasion for the petitioner to participate in the commission of alleged offence, as complainant with whom sister of petitioner was married, on account of her death in the mysterious circumstances, relations between complainant and petitioner's family were not cordial. He further urges that even otherwise no offence under Section 307 IPC is made out against the petitioner as alleged injury on the person of complainant has not been declared either 'dangerous to life' or 'sufficient to cause death'. He further submits that earlier petition (CRM-M-11306-2020) for grant of pre-arrest bail moved by petitioner was dismissed by this Court, vide order dated 30.07.2020 and thereafter, there is change in scenario as co-accused Satnam Singh against whom similar allegations have been levelled, has already been extended concession of pre-arrest bail by this Court, vide order dated 15.03.2021 passed in CRM-M-37195-2020 and as such on account of parity, the petitioner is entitled to pre-arrest bail. He further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

On the other hand, learned State counsel while opposing the cause of petitioner has vehemently argued that though petitioner was not named in the FIR but during investigation, complainant/injured-Karan

Singh had made supplementary statement on 25.02.2020, wherein he had disclosed the involvement of petitioner in the commission of offence specifically stating that petitioner was driving the offending scooty at the relevant time. He further urges that during investigation CCTV footage of place of occurrence was collected and in terms of that CCTV footage and photographs, complainant-Karan Singh had identified petitioner-Bhupinder Singh, being driver of abovesaid scooty and to this effect memo of identification of accused was prepared. He further urges that petitioner cannot claim parity with co-accused Satnam Singh as petitioner while driving offending scooty played active role in the commission of offence, whereas co-accused Satnam Singh had hatched the conspiracy because complainant is having property dispute with his in-laws family. He further urges that custodial interrogation of petitioner is required as identity of pillion rider of scooty, who fired upon complainant, is yet to be traced out. He further submits that earlier petition (CRM-M-11306-2020) for grant of pre-arrest bail moved by petitioner was dismissed on merits by this Court, vide order dated 30.07.2020 and since there is no change in scenario, instant second petition is not maintainable. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unveil the truth and as such he is not entitled to the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the records of the case.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner

complainant-Karan Singh and then to effectuate said conspiracy had driven scooty, whereas co-accused pillion rider, whose identity is yet to be traced out, fired upon complainant-Karan Singh and thereby attempted to commit his murder. It is pertinent to mention here that after the disposal of previous petition of petitioner (CRM-M-11306-2020) for grant of pre-arrest bail, by this Court, vide order dated 30.07.2020, there is no change in scenario qua petitioner, as he cannot claim parity with co-accused Satnam Singh in terms of their respective attributed roles in the commission of alleged offence as allegedly co-accused Satnam Singh had merely conspired to commit the offence, whereas allegedly petitioner had actively participated in the commission of offence. Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is well-settled that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation as identity of pillion rider, who allegedly fired upon

the complainant, is yet to be traced out. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement to pre-arrest bail and even otherwise the specious reason of change in circumstance cannot be invoked for successive anticipatory bail applications, once it is rejected by speaking order.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

17.08.2021

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No