

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

(102)

CRM-M-3225-2021

Date of decision : 25.01.2021

Gurvinder Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. G.S.Sandhu, Advocate
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Gautam Dutt, Advocate
for the complainant.

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SUVIR SEHGAL, J.

The hearing of the petition has been taken up through video conferencing on account of outbreak of COVID-19 Pandemic.

Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 seeking grant of anticipatory bail to the petitioner in the event of his arrest in FIR No.191 dated 29.05.2018 under Sections 307, 323, 506 and 34 of Indian Penal Code and Sections 25 and 27 of Arms Act, 1959, registered at Police Station Nissing, District Karnal, during the pendency of the trial.

As per the version of the prosecution, FIR was registered on the basis of statement of Suresh Kumar, son of Atma Ram, to the effect that demarcation of passage leading to the land belonging to the Prajapat caste in village Dhachar was done by the staff of the Tehsildar after getting orders from him. After the demarcation, when the complainant reached near the Government school of their village at about 7.00 p.m., Amar Singh (father of the present petitioner) and Gurvinder Singh (present petitioner) came on a motorcycle and confronted them for laying the passage to their land. Heated exchange followed, both Amar Singh and Gurvinder Singh got infuriated and started hurling filthy abuses. Gurvinder Singh took out a pistol and Amar Singh, who was carrying a double barrel gun started firing upon them. The complainant was hit by pellets on his legs. In the meantime, a number of other accused reached there, who were brandishing rifle, revolver, sword, country made pistol and 80/90 rounds were fired. The complainant and his companions were attacked with bricks and rods and some of them got seriously injured. On hearing the commotion, a number of villagers gathered and the injured were taken by them to the hospital.

Counsel for the petitioner has argued that the petitioner has been falsely implicated and the incident, as alleged in the complaint, never took place. It is his argument that the petitioner belongs to Jat community and the complainant party belong to Prajapat community, whose profession is of pottering. When the complainant party were extracting soil from the Panchayat land on 25.08.2018, the father of the petitioner objected. 250-

300 people from the Prajapat community gathered in front of their house and started shouting that Amar Singh should not be spared and attacked their house. Father of the petitioner went to the roof top of his house and opened fire in the air in self-defence to save his family members, who were present in the house. To support his argument, counsel has referred to the photograph (Annexure P-2) and has also made a reference to the videography of the incident. Counsel contends that no gun-shot injury was received by anyone from the complainant side. He has relied upon order dated 30.06.2018 (Annexure P-1), by which petitioner's father - Amar Singh was granted a regular bail by the trial Court and order dated 17.07.2019 (Annexure P-3), whereby petition filed for cancellation of his bail, was rejected by this Court. He submits that a cross-case was registered against the complainant.

The petition has been opposed by the counsel for the State, who is assisted by Inspector Diwan Singh and Mr. Gautam Dutt, Advocate, who has appeared for the complainant. It has been submitted that investigation in the episode is underway and it is being conducted by a Special Investigation Team. He submits that nine persons have received pellet injuries and the injury suffered by Jai Bhagwan has been declared to be grievous in nature. Five persons have received injuries from blunt weapons. He submits that in the cross-case, Sube Singh – injured has been found to have suffered simple injury. It has been argued that during the course of investigation, sufficient evidence has surfaced against the petitioner to show his involvement in the incident and that his custodial interrogation is required. Reference has also been made to the fact that the petitioner is on

large even though the FIR was registered in May 2018.

I have considered the rival submissions of the parties.

The petitioner and his father have been specifically named in the FIR. Both of them are alleged to have been armed. There is specific allegation against the petitioner that he was carrying a pistol and he fired upon the complainant, who belongs to the Prajapat community, whereas the petitioner belongs to the Jat community. Injuries have been received by a number of persons including Jai Bhagwan, who suffered a grievous injury. Amar Singh, the father of the petitioner, was arrested, however, the petitioner has been on the run for the last one and a half year. It deserves to be noticed that it was only after an order dated 26.11.2020 was passed by the Haryana Human Rights Commission seeking a report from the Superintendent of Police, Karnal that attempts were made to arrest the petitioner, who has applied for anticipatory bail.

Reliance placed by the counsel for the petitioner, upon the orders (Annexures P-1 and P-3) are of no help to him because by order (Annexure P-1) Amar Singh the father of the petitioner was released on regular bail after he remained in custody for a period of 30 days. Petition filed by the complainant before this Court for cancellation of his bail was rejected, vide order (Annexure P-3) clarifying therein that any observation made by the learned Additional Sessions Judge, Karnal in the order (Annexure P-1) shall have no bearing on the trial, which will decide the matter in accordance with law on the basis of the evidence on record. For this reason, the reliance placed by the petitioner upon the alleged videography of the

incident cannot be taken into consideration for the purpose of grant of bail.

Keeping in view the allegations against the petitioner, the gravity of the offence, the fact that the petitioner has managed to evade arrest for the last more than 18 months and the incriminating material with the prosecution showing his probable involvement in the episode, this Court is of the view that no ground for grant of anticipatory bail is made out. The petition is accordingly dismissed.

It is clarified that any observation made herein above, shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

25.01.2021
Pardeep

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No