

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17703-2021

Date of Decision: 09.06.2021

Ravinder Kumar

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sapan Dhir, Advocate for the petitioner.

Mr. Saurabh Girdhar, Asstt. Advocate General, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 438 of Code of Criminal Procedure for the grant of concession of anticipatory bail to the petitioner in FIR No.0115 dated 05.03.2021, under Sections 285, 506 of Indian Penal Code, 1980 and Sections 25, 54, 59 of Arms Act, registered at Police Station Azad Nagar, Hisar.

As per the FIR which was lodged at the instance of one Dharampal son of Birbal, resident of Village Kalwas by stating that on the marriage of daughters of his younger brother when the Barat had come then one of their relatives namely Sunder son of Banwar Lal Sudhar, and his brother were also there in the Barat. (Learned counsel for the petitioner has submitted that in fact the name of the accused was Ravinder Kumar and it has been wrongly recorded as Sunder in the FIR). Thereafter, when the Barat reached at their place then the petitioner was firing with his small butt gun and upon

stopping he told the complainant as to who he is to stop him and in case he stopped him, then he will kill him. Thereafter, he again fired the shot, upon which he caught hold of his gun and took a pistol from his pistol waist and fired. In between the son of the complainant and maternal uncle also came and phoned at 100 number and thereafter, the petitioner ran away with his two weapons by taking advantage of the dark.

The learned counsel for the petitioner has submitted that it is a case where allegedly the shots were fired in the air and there was no injury caused to anybody. He further submitted that the petitioner does not hold any license of any firearm. He submitted that the petitioner being a member of the Barat party was not aware as to whom the gun belongs. He submitted that he is ready and willing to join investigation and he may be granted the concession of anticipatory bail.

This Court had issued notice of motion on 28.04.2021 and the State had sought time to file reply. A reply has been filed by the Deputy Superintendent of Police, Law and Order, Hisar.

Mr. Saurabh Girdhar, learned Assistant Advocate General, Haryana while referring to the reply filed by the State has submitted that it is a case where the petitioner was not holding any arms license but he fired shot from a gun in the air and also threatened to kill and when he was stopped then he took out a pistol from his pocket and fired another shot. He has referred to para No.3 of the affidavit/reply filed by the State to contend that during the spot inspection two empty cartridges of 12 bore gun and one empty cartridge of 7.65 KF of pistol were recovered from the spot. Even the photographs of the place of occurrence have also been taken into the police possession which clearly show that the petitioner was holding fire arms. During the course of investigation it also transpired that full name of the petitioner Ravinder Kumar

is Ravinder Kumar alias Sunder. The learned State counsel further submitted that the identity of the petitioner is not in dispute as he is identifiable in the photograph from where it can be seen that he was firing shots from the gun. Even copy of the photographs have been attached alongwith the reply as Annexure R-1. The learned State counsel further submitted that it is a case where the petitioner is absconding and his custodial investigation is required for the recovery of the gun and pistol and also to know from where the petitioner had taken the pistol and gun. It is only after the recovery of the weapons that the same can be send to the Forensic Laboratory. He further submitted that had it been a case that the petitioner was having a valid license of the two guns the position could have been different but here was a case where the petitioner was not holding any valid license but had used the gun and pistol of somebody else and, therefore, the custodial investigation of the petitioner is very much required. Para 3 of the reply is reproduced hereunder:-

*3. That the investigation of this case is being carried out in a fair and impartial manner. During investigation spot inspection was carried out by the investigating officer. During spot inspection two empty cartridges of .12 bore of gun and one empty cartridge of 7.65 KF of pistol were recovered from the spot. The photographs of place of occurrence have also been taken in to police possession which clearly shows that the petitioner was having fire arms. A copy of the photographs is annexed as **Annexure R-1**. Statements of witnesses have been recorded under section 161 Cr.P.C. During course of investigation it has also transpired that the full name of petitioner Ravinder Kumar is Ravinder Kumar @ Sunder which has been mentioned as Sunder in the FIR. There is sufficient evidence against the petitioner. Custodial interrogation of the petitioner is very much required for recovery of gun and pistol and to know the original from where the petitioner took the illegal pistol. Besides this, after recovery of arms, same shall be sent to FSL Madhuban for*

examination. Therefore the petitioner is not entitled for the relief of anticipatory bail.”

Mr. Deepak Choudhary, Advocate, has caused appearance on behalf of complainant and he has submitted that the petitioner was present in the gathering of marriage and he had shot from two weapons and the petitioner is shown in the photographs and has opposed the grant of anticipatory bail.

I have heard the learned counsel for the parties.

It is a case where 'Harsh firing' (firing in the air) has been allegedly done by the petitioner. The argument raised by the learned counsel for the petitioner that it was a case of no injury would not be sustainable in view of the fact that firstly, 'Harsh firing' is not permitted as per the reply filed by the State which is depicted in para 7 of reply on merits. Secondly, the petitioner was admittedly not holding any valid license for the two guns from where he had shot the gun and according to the prosecution, the petitioner was identifiable in the photographs which have also been annexed alongwith the reply. The learned State counsel has submitted that the petitioner had used the two guns by taking them from some other person and, therefore, the custodial investigation of the petitioner shall be required. It is a settled law that while considering the grant of anticipatory bail the Court has to strike a balance between the liberty of an individual on one hand and on the other hand various factors are to be considered namely, the possibility of tampering with evidence, fleeing from justice, recovery of weapon and other factors of like nature. In the present case, the nature of facts and circumstances of the case would suggest that the petitioner was not holding a valid license and he had fired from two different weapons. He allegedly has fired from a gun and when he was stopped he took out a pistol from his pocket and fired again. Both the weapons are yet to be recovered. Therefore, considering the facts and circumstances of

the case the custodial investigation of the petitioner would certainly be required and, therefore, there is weight in the arguments advanced by the learned State counsel.

In view of the above, this Court does not deem it fit and appropriate to grant anticipatory bail to the petitioner.

Consequently, the present petition is dismissed.

09.06.2021
rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No