

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

101

CRM-M-20120-2021.

Date of Decision: 21.05.2021.

Beant Singh

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Tajinder Pal Singh Makkar, Advocate for petitioner.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. has been moved by petitioner for grant of pre-arrest bail in case FIR No.210 dated 13.08.2020 under Sections 148, 188, 269, 270, 307, 323 and 324 IPC read with Section 149 IPC (Section 326 IPC added lateron vide DDR No.20 dated 29.11.2020), Sections 25 and 27 of Arms Act, Section 3 of Epidemic Diseases Act, 1897 and Section 54 of Disaster Management Act, 2005, registered at Police Station Gidderbaha, District Sri Muktsar Sahib.

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 submits that allegedly petitioner while armed with double barrel gun fired towards complainant-Ajaypal Singh, which fire hit on the road and then pellets thereof hit the left bicep of

complainant-Ajaypal Singh. He further urges that above said injury on the person of complainant-Ajaypal Singh, attributed to petitioner, has been declared simple in nature. He further urges that as per supplementary statement of complainant (Annexure P/3), the fire-arm injury on the abdomen of injured-Balkaran Singh @ Gora, is attributed to co-accused Lovepreet Singh @ Labhi. He further urges that since it is a case of version FIR as well as cross-version, it is yet to be decided during the course of trial as to which party was the aggressor one. He further urges that co-accused Amandeep Singh @ Amna has already been extended concession of pre-arrest bail by this Court, vide order dated 17.02.2021 passed in CRM-M-38049-2020. 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.

Notice of motion.

At the asking of Court, Mr. Mehardeep Singh, Additional Advocate General, Punjab, accepts notice on behalf of respondent-State. Complete copy of paper book has been supplied to him.

Learned State counsel while opposing the cause of petitioner has vehemently argued that petitioner while armed with double barrel gun fired towards complainant-Ajaypal Singh, which fire hit on the road and then pellets thereof hit the left bicep of complainant-Ajaypal Singh and recovery of fire-arm used during the commission of offence is yet to be effected. He further submits that petitioner is a habitual offender as he is also involved in two other cases bearing FIR No.111 dated 11.10.2017

under Section 61 of Punjab Excise Act, registered at Police Station Gidderbaha, District Sri Muktsar Sahib and FIR No.15 dated 31.10.2018 under Section 61 of Punjab Excise Act, registered at Police Station Lambi, District Sri Muktsar Sahib. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unearth the truth and as such he is not entitled for the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner while armed with double barrel gun fired towards complainant-Ajaypal Singh, which fire hit on the road and then pellets thereof hit the left bicep of complainant-Ajaypal Singh. 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 now well-settled proposition of law 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

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. 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 of pre-arrest bail.

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

(LALIT BATRA)
JUDGE

21.05.2021

jitender

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No