

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

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CRM-M-25907-2021.

Date of Decision: 08.07.2021.

Sukhdev Singh @ Vicky

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Rishu Mahajan, 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-**Sukhdev Singh @ Vicky** for grant of pre-arrest bail in case FIR No.141 dated 15.05.2021 under Sections 323, 336 and 452 IPC read with Section 34 IPC and Sections 25 and 27 of Arms Act, registered at Police Station Division B, District Police Commissionerate Amritsar.

Learned counsel for 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 as a matter of fact relations between complainant-Dalip Chhabra and his wife Amandeep Kaur, sister of petitioner, are quite strained, for said reason alone and to exert pressure upon the petitioner, instant FIR has been registered. He further submits that no injury was sustained by complainant and, thus, he was not medico-

legally examined. 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 on 15.05.2021 at about 6:30 PM, petitioner alongwith four unidentified persons while armed with pistols and *Dang* committed trespass into the house of complainant-Dalip Chhabra and then petitioner inflicted *butt* blow of his pistol on the back of head of complainant and also fired shots from his pistol, whereas co-accused inflicted a *Dang* blow on the left shoulder and left thumb of complainant. He further submits when Nirmal Kaur, mother of complainant, raised hue and cry, accused persons while firing in the air fled away from the spot. He further submits that four fired cartridge cases were recovered from the spot. He further submits that weapons of offence used during the commission of offence are yet to be recovered and further four unidentified persons who were accompanying the petitioner at the time of occurrence in question, their names as well as identity are to be got ascertained from the petitioner. He further submits 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 alongwith four unidentified persons while armed with pistols and *Dang* committed trespass into the house of complainant-Dalip Chhabra, inflicted *butt* blow of pistol on the back of head of complainant and also fired several shots to overawe the complainant party. 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. 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

08.07.2021
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No