

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

104

CRM-M-26207-2021.

Date of Decision: 09.07.2021.

Harpreet Singh @ Happy

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Jashandeep Singh Sandhu, Advocate for petitioner.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This third petition under Section 438 Cr.P.C. has been moved by petitioner for grant of pre-arrest bail in case FIR No.155 dated 22.09.2020 under Sections 148, 323, 324, 336, 379-B, 452 and 506 IPC read with Section 149 IPC (Section 307 IPC added lateron) and Section 25 of Arms Act, registered at Police Station Gharinda, Amritsar Rural, District Amritsar.

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 no such incident as alleged had ever taken place. He further urges that no specific injury on the person of complainant-party has been attributed to the petitioner. He further

urges that the alleged licenced weapon is already in police possession in

some other case and this fact proves false implication of petitioner in the instant FIR. He further submits that as a matter of fact petitioner-party had sustained injuries and though efforts were made at the instance of petitioner-party to get their version registered with the Police, but to no avail. He further submits that nothing incriminating is to be recovered at the instance of petitioner. He further submits that petitioner is a Corona positive and is not keeping good health as is evident from report dated 23.06.2021 (Annexure P/2). He further urges that co-accused Gurlal Singh has already been extended concession of pre-arrest bail by this Court, vide order dated 15.01.2021 passed in CRM-M-33896-2020. 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 paperbook has been supplied to him.

Learned State counsel while opposing the cause of petitioner has vehemently argued that petitioner while driving car make *i-20* at fast speed directly hit against complainant-Swaran Singh, as a result of which, he (Swaran Singh) was tossed in the air and, thus, sustained multiple injuries on his person. He further urges that petitioner while armed with pistol fired several shots in the air and further while having entered into the house of complainant pulled him (complainant) out and then petitioner alongwith co-accused inflicted multiple injuries on the person of

Kulwant Kaur as well. He further urges that Kulwant Kaur had sustained as many as nine injuries on her person and out of those nine injuries, one injury has been declared grievous in nature. He further urges that entire incident was captured in the CCTV camera. He further urges that petitioner is habitual offender as he is involved in number of criminal cases (two cases under Section 307 IPC). He further urges that co-accused Gurlal Singh during the course of investigation has revealed that the pistol and car make *i-20* used in the commission of crime are in possession of petitioner. He further urges that weapon as well as car make *i-20* used in the commission of offence are yet to be recovered from the petitioner. He further submits that first petition (CRM-M-42082-2020) for grant of pre-arrest bail moved by petitioner was dismissed by this Court, vide order dated 10.02.2021, whereas the second petition (CRM-M-17493-2021) for grant of pre-arrest bail moved by petitioner was dismissed as withdrawn, vide order dated 27.04.2021. He further submits that there is no change in scenario for extending the concession of pre-arrest bail to the petitioner. 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 for 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 while driving car make *i-20* at fast speed hit complainant-Swaran Singh in such a manner, as a result of which, injured-Swaran Singh was tossed in the air and

Allegedly, petitioner having armed with pistol fired shots in the air and then committed trespass into the house of complainant, dragged him (complainant) out and then he alongwith co-accused inflicted injuries on the persons of complainant-Swaran Singh and his wife Kulwant Kaur. Further, the first petition (CRM-M-42082-2020) for grant of pre-arrest bail moved by petitioner was dismissed by this Court, vide order dated 10.02.2021, whereas his second petition (CRM-M-17493-2021) for grant of pre-arrest bail was dismissed as withdrawn, vide order dated 27.04.2021 and there is no change in scenario for extending the concession of pre-arrest bail to the petitioner. 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

09.07.2021
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No