

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

**CRM-M No.30300 of 2021
Date of Decision:-10.08.2021**

Virender Kumar @ Bir Singh

.....Petitioner.

Versus

State of Haryana

.....Respondent.

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. R.N. Lohan, Advocate
for the petitioner.

MEENAKSHI I. MEHTA, J.(Oral)

The petitioner herein seeks the relief of regular bail in the criminal case pertaining to the FIR bearing No.125 dated 19.03.2021 registered at Police Station Palam Vihar, Gurugram, District Gurugram, under Section 307 read with Sections 120-B and 34 IPC as well as Section 25(1B)(a) of the Arms Act with the allegations that two boys had fired shots at complainant Chanderpall Yadav which resulted into the injury on his right arm.

Mr. Apoorv Garg, learned Deputy Advocate General, Haryana, has joined the proceedings in this case in pursuance of the notice of this petition having been sent to the respondent-State in advance. He has forwarded the copy of the 'Pairvi' report/status-report to this Court through the "WhatsApp Group for Video-Conferencing" and the same is taken on the record.

I have heard learned counsel for the petitioner as well as learned State counsel in this petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that the name of the petitioner does not find mention in the subject FIR and rather, he has been implicated in this case solely on the basis of the disclosure statement as allegedly suffered by his co-accused named Sube Singh on 07.06.2021 whereas in his disclosure statement recorded on 04.06.2021, the said co-accused of the petitioner had not even whispered about his (petitioner's) name and thus, the afore-said disclosure statement is not trustworthy and hence, it cannot be taken into consideration to implicate the petitioner in this case and moreover, no recovery has been effected in pursuance thereof so as to show the involvement of the petitioner in the alleged crime. He further contends that the petitioner was not even present at the spot at the time of the alleged occurrence and he is in custody since 08.06.2021 and in these circumstances, he deserves the relief as prayed for in this petition.

Per contra, learned State counsel argues that the petitioner had done the *reiki* of the complainant and had passed on the information to the assailants accordingly, so as to facilitate the commission of the offence in this case and thus, he has participated in the crime and it being so, the present petition deserves dismissal.

Though the name of the petitioner surfaces in the said subsequent disclosure statement of his above-named co-accused as

recorded on 07.06.2021 but however, the veracity/truthfulness of the said disclosure statement can be determined at the relevant stage after appreciating the evidence that would be led on the record during the course of the trial and the same cannot be ascertained at this stage.

As regards the evidentiary value of the said disclosure statement of his afore-named co-accused, it is pertinent to mention here that as per Section 27 of the Indian Evidence Act (for short, 'the Act'), the disclosure/confessional statement as made before the police officer can be read in the evidence only to the extent so far as it pertains to the 'fact' discovered in pursuance of the same and the 'fact', as defined in Section 3 of the Act, means and includes anything, state of things, or relation of things capable of being perceived by the senses and any mental condition of which any person is conscious, meaning thereby that this provision, i.e. Section 27 of the Act, not only covers the physical/tangible objects and rather, it includes mental facts as well. The petitioner is alleged to have done the '*reiki*' about the complainant and to have informed the assailants qua the same which allegedly led to the occurrence resulting into the injury on the person of the complainant. In these circumstances, the said disclosure statement of his above-said co-accused cannot be outrightly brushed aside, at this stage, on the ground that the same is inadmissible in view of Section 27 of the Act and rather, its evidentiary credence can and shall be looked into and adjudicated by the trial Court at the appropriate stage after appreciating the evidence as would be led on the record during trial proceeding whereas concededly, the trial is yet to commence in this

case and thus, the complainant-victim and other material witnesses are yet to be examined.

As a sequel to the foregoing discussion, it follows that the petition in hand deserves dismissal. Resultantly, the same stands dismissed accordingly.

However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

August 10, 2021
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*