

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

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**CRM-32306-2021 in
CRM-M-30829-2021.
Date of Decision: 29.09.2021.**

Jaspal Singh

....Applicant/Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Karanjit Singh Brar, Advocate for
Mr. Sant Pal Singh Sidhu, Advocate for petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Karandeep Singh Sidhu (Rattewala), Advocate
for complainant.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video
Conferencing.

CRM-32306-2021

This application under Section 482 Cr.P.C. is for preponement
of date of hearing of the main petition, which is already fixed for
06.10.2021.

Notice of application.

At the asking of Court, learned State counsel accepts notice and
submits that he has no objection in case the application is allowed.

In view of the grounds mentioned in the application and no
objection by learned State counsel, hearing of the main petition is preponed
and the same is taken on Board today itself.

CRM is allowed.

Main Case

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioner-**Jaspal Singh** in case FIR No.55 dated 18.06.2021 under Sections 148, 307 and 506 IPC read with Section 149 IPC and Sections 25 and 27 of Arms Act, registered at Police Station Mallanwala, District Ferozepur.

In compliance of order dated 24.08.2021, additional reply dated 12.09.2021 by way of affidavit of Raj Pal Singh Sandhu, IPS, Senior Superintendent of Police, Ferozepur, District Ferozepur, alongwith Annexure R-1/T (Test Report), already filed on behalf of respondent-State, is taken on record.

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 though alleged occurrence took place on 17.06.2021 at 8:00 PM, whereas FIR was got registered on 18.06.2021 at 9:30 PM and as such there was inordinate delay in lodging the FIR and that too unexplained one. He further submits that vehicle shown to be used in the commission of alleged offence does not belong to petitioner. He further urges that alleged motive attributed to petitioner in the commission of offence does not survive as testimony of PW-Balwinder Singh has already been recorded in Court in case FIR No.55 dated 02.05.2017 under Section 302 IPC registered at Police Station Kulgari, District Ferozepur. He further submits that even otherwise no injury was sustained by the complainant in the commission of alleged offence. He further submits that since petitioner does not own or possess

already lying deposited in police custody, question of getting any fire-arm recovered at the instance of petitioner, does not arise at all. 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.

On the other hand, learned State counsel assisted by learned counsel for the complainant while opposing the cause of petitioner has vehemently argued that on 17.06.2021 at about 8:00 PM, petitioner alongwith co-accused while armed with pistol constituted unlawful assembly and in prosecution of common object of said assembly came on vehicle make Mahindra bearing registration No.PB-05AL-4489 at the residence of complainant-Gurtej Singh and then to overawe him (complainant) and his uncle Balwinder Singh to compromise the matter pertaining to murder of father and grandfather of complainant, wherein trial is going on and then fired upon complainant and thereby attempted to commit his murder. He further urges that petitioner was specifically named in the FIR and firing on the person of complainant is specifically attributed to him. He further urges that the entire episode was captured in the CCTV camera installed at the residence of complainant. He further submits that vehicle make Mahindra bearing registration No.PB-05AL-4489, which was used in the commission of offence, has already been taken into possession by the police and though the said vehicle is registered in the name of Lakha Singh but at the time of commission of offence, the said vehicle was being driven by co-accused Sukhjinder Singh, cousin of petitioner. He further

into possession by the police from the spot and the same was examined by Head Armourer, who vide Test Report dated 01.07.2021 (Annexure R-1/T) has reported that on checking abovesaid empty cartridge of pistol, on its back 7.62x25 S&B was written and it was of Seller and Ballet Company and it can be used in .30 bore Pistol. He further urges that plea raised by petitioner that he does not own or possess any fire-arm and further the fact that fire-arms of his father have already been got deposited in the Malkhana of Police Department but said plea has no significance as fire-arm in question is Pistol, whereas fire-arms pertaining to Ranjit Singh, father of petitioner, are .12 bore SBBL No.22060 and .315 bore Gun No.074208783 and as such custodial interrogation of petitioner is required to unveil the genesis of offence as well as to get the weapon of offence (Pistol) recovered from him. He further urges that in view of nature of offence committed by the petitioner, 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 record of the case.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly on 17.06.2021 at about 8:00 PM, petitioner alongwith co-accused while armed with Pistol came at the residence of complainant-Gurtej Singh, on vehicle make Mahindra bearing registration No.PB-05AL-4489 and then petitioner threatened complainant-Gurtej Singh to effect compromise in the case pending against them and thereafter he (petitioner) took out a Pistol and fired upon complainant and on hearing noise of firing, Balwinder Singh, uncle of complainant, came out and on raising alarm by him, accused

persons alongwith their weapon sped away on the vehicle from the spot. 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

29.09.2021

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