

In virtual Court

CRM-M-32560-2021

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32560-2021 (O&M)
Date of decision: 27.08.2021

Samal

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.P.S. Sidhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.115 dated 07.10.2018 under Sections 302, 307, 341, 427, 148, 149, 120-B IPC and Sections 25/27 of Arms Act, registered at Police Station Cantt. Ferozepur, District Ferozepur.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered on the complaint of Jagsir Singh @ Jagga, he had a quarrel with Vicky @ Samual in the year 2015, which took place inside the Central Jail, as the complainant was undergoing sentence in an NDPS case. It is further stated in the FIR that the complainant was on parole from 03.10.2018 to 23.10.2018 and on 06.10.2021, he celebrated his birthday in the house of his

friend Sheeshu. The function was attended by Sonu, Harjinder Singh @ Pinka, Chamkaur Singh, Rakesh Kumar @ Happy and Rajvir Gill @ Sonu. After the party was over, they came to house of Vishal near Octroi Post No.7 and the complainant was waiting for Chamkaur Singh etc. at the gate of house of Chamkaur Singh. At about 12.00 midnight, Chamkaur Singh came and he was at a distance of 40-50 feet from house of Vishal, then a white coloured Scorpio came in front of car of Chamkaur Singh. Another vehicle Tata Safari came from the backside. Vicky @ Samual armed with pistol, Wilson armed with pistol and some unidentified persons armed with khanda came out of said Tata Safari and gave blow on car of Chamkaur Singh. 8-9 persons also came out of both the vehicles carrying baseball, kappas and pistol and by raising lalkara, instigated Vicky to teach them a lesson. Vicky @ Samual fired shot towards car of Chamkaur Singh. Harjinder Singh @ Pinka tried to run away, then Wilson fired shot towards Harjinder Singh. Vicky @ Samual fired shot towards Chamkaur Singh, which hit on his thigh. Thereafter, all the accused ran away from the spot. The complainant saw in the car and he found Sonu lying with firearm injury. When the injured were brought to the hospital, Sonu and Harjinder Singh succumbed to the injuries and Chamkaur Singh was referred to Medical College, Faridkot.

Learned counsel for the petitioner further submits that the petitioner was not named in the FIR and after a period of two and half months, supplementary statement of witness Rohit was recorded on 24.12.2018 along with another witness Sunil Kumar, in which it is stated that they have seen that behind two cars, petitioner Samal @ Mota was driving white coloured Activa

and on the rear seat, co-accused Billa was riding and both of them were coming from the side of place of occurrence.

Learned counsel for the petitioner has further submitted that nothing has come in the affidavit of the Investigating Officer that the petitioner and co-accused Billa were either present at the spot, where the incident took place or their call details record shows that they were present at the spot. It is also submitted that even there is no allegation against co-accused Billa, who is stated to be pillion rider on the Activa driven by the petitioner. It is next submitted that both witnesses Rohit and Sunil Kumar are not cited as eyewitnesses and their statement only suggests that they have seen the petitioner and co-accused Billa on an Activa coming from the side of place of occurrence.

Learned State counsel, on the basis of affidavit of Investigating Officer/SI Mehal Singh, Police Station Cantt. Ferozepur filed in the Court today, could not dispute the factual position, however, it is submitted that since it is a case of double murder, the police has conducted fair investigation and during the investigation, aforesaid two witnesses stated that they have seen the petitioner along with one Billa coming on an Activa from the side of place of occurrence, which took place at 12.00 in the night.

After hearing learned counsel for the parties and considering the fact that neither the petitioner was named in the FIR nor eyewitnesses have stated that apart from two vehicles, on which the accused persons came at the spot, an Activa was accompanying them and also in view of the fact that two witnesses Rohit and Sunil Kumar, on whose statement, the petitioner is

In virtual Court

CRM-M-32560-2021

-4-

nominated as accused in the FIR, are the eyewitnesses and even no call details are there to show that the petitioner was present at the spot, I deem it appropriate to grant the concession of anticipatory to the petitioner.

Accordingly, this petition is allowed and the petitioner is granted the concession of anticipatory bail subject to the conditions envisaged under Section 438 (2) Cr.P.C.

It will be open for the Investigating Officer to issue an advance notice in writing to the petitioner, if he is required for the investigation.

**[ARVIND SINGH SANGWAN]
JUDGE**

27.08.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No