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

CRM-M-45254-2021

Date of decision : 29.10.2021

Ajit Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sarfraj Hussain, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.156 dated 02.06.2021 registered under Sections 307, 506, 387, 34, 120-B, 201 of the Indian Penal Code, 1860 and Sections 25(1-B) (a), 27(1) of the Arms Act, 1959, at Police Station Farrukh Nagar, District Gurugram.

Learned counsel for the petitioner has submitted that the present case is a case of no injury and that the petitioner was not named in the FIR and in fact, he has been implicated on the basis of disclosure statement of co-accused and even as per the said disclosure statement, as is apparent from the order dated 13.10.2021 (Annexure P-1) passed by the Additional Sessions Judge, Gurugram, rejecting the bail to the

petitioner, neither the petitioner had caused any injury nor was having any weapon and was only present at the spot.

Notice of motion.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the State of Haryana and has stated that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition for grant of anticipatory bail to the petitioner and has submitted, on instructions from ASI Munni Lal, that although, the gun shots have been fired in the air by Devender @ Mintu as per the allegations in the FIR but even the petitioner was found present at the spot.

Learned counsel for the State has further submitted that there is one more FIR registered against the petitioner.

Learned counsel for the petitioner has submitted that there is no case pending against the petitioner and has submitted that at any rate, as per the law laid down in “***Maulana Mohd. Amir Rashadi vs. State of U.P. and another***”, reported as ***2012 (2) SCC 382***, it is the facts and circumstances of the present case which are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the

case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has considered the arguments of learned counsel for the parties.

It is not in dispute that the petitioner was not named in the FIR and that no injury has been caused to any person and the allegations with respect to firing in the air are also attributed to Devender @ Mintu and the petitioner has been implicated in the case solely on the basis of disclosure statement of the co-accused and even as per the said disclosure statement, no overt act has been attributed to the petitioner and it was only stated that he was present at the spot.

In view of what has been observed above, the present petition is allowed and the petitioner is granted the concession of anticipatory bail subject to the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

29.10.2021

Pawan

**(VIKAS BAHL)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**