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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50781-2021
Date of Decision:09.12.2021

Lakhan @ Rakesh Kumar Rana

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr.Vipin Mahajan, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.323 dated 31.05.2021, under Sections 307, 452, 323, 148, 149 IPC and Section 25, 54 Arms Act, registered at Police Station City Palwal, District Palwal, Haryana.

As per the FIR which was lodged on the basis of a complaint made by one Rohit that he works as a labourer and had been working in the kitchen of the office of Bala Traders approximately for 3 years. This office is of Naina (Mahesh Bindal) and in this office approximately 1 month ago Manoj Arora, Lakhan (Petitioner), Kali, Vikky and Harinder (Kalu) used to come and a few days back Naina gave application in Police Station City

Palwal with regard to taking money from Punjabi community. Manoj Arora, Lakhan (Petitioner), Kali, Vikky and Harinder (Kalu) used to tell Naina in this regard that the money which they are paying to the Punjabis must be given to them otherwise it will not be good for them. Thereafter on 30.05.2021 the aforesaid Mahesh Bindal, Bhola, Rahul Binda, Vikky, Gaurav and Satish were sitting and drinking and it was about 9.30 in the evening when Manoj Arora, Lakhan (Petitioner), Kali, Vikky, Harinder (Kalu) and 3 other persons came to the office and started kicking the doors and started firing at the door. Manoj Arora and Lakhan (Petitioner) had country made pistols in their hands and there was a pistol in the hands of Harinder (Kalu) as well and there are continuous firing. Their companions were shouting loudly that they will kill them today and the complainant got hit by a bullet on his right thigh and he lost consciousness and fell down on the table. Thereafter, he gained consciousness, then everybody had left the office. It is further stated in the FIR that Manoj Arora fired at the complainant.

The learned counsel for the petitioner has submitted that in the present case the petitioner was falsely implicated in view of the fact that it was rather the other party who had fired a shot at the petitioner and one another person and they were injured by the firearm shot and they were operated upon in the hospital and, therefore, the story put forward in the present FIR was a concocted story. He has also referred to Annexure P-2 which is a medical summary of the petitioner which shows that the petitioner was hit by a gunshot injury and there was redness and swelling on left upper abdomen and that he was also operated upon in the hospital. He further referred to Annexure P-3 which is a medical summary of Manoj who

is also a co-accused in the present FIR and as per the medical report, he also received gunshot injury. The learned counsel has further referred to Annexure P-7 which is a disclosure statement of Rohit-complainant to contend that in his disclosure statement, he had stated that a fight had taken place on account of exchange of money after which Manoj had slapped Bhola and Bhola with intention of murdering him fired from his pistol and the bullets hit Manoj and his uncle Lakhan (Petitioner) and they fell down. He further stated in his disclosure statement that Naina, Rahul and Bhola had illegal weapons. The learned counsel submitted that the disclosure statement of the complainant would show that the other party was the aggressor party. He submitted that the petitioner is not involved in any other case and, therefore, he may be considered for the grant of anticipatory bail.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana while opposing the grant of anticipatory bail to the petitioner has submitted that a direct and specific role has been attributed to the petitioner in the present FIR that he alongwith Manoj were carrying country made pistols and they started firing continuously and they were also accompanied by 4-5 other boys. He submitted that the mere fact that the petitioner and the other co-accused Manoj were injured by gunshot injury does not vest any right in the petitioner for grant of anticipatory bail in view of the fact that it appears that both the parties had fired at each other and the recovery of the weapons used and the modus operandi adopted by both the parties is yet to be ascertained. He submitted that a cross FIR was also registered vide Annexure P-4 in this regard. He further submitted that when the petitioner and his party had come to the place of the complainant, the same was captured in the CCTV footage from where it can be seen that the

petitioner alongwith other persons were carrying sticks etc. and, therefore, it cannot be presumed at this stage that the petitioner was not the aggressor party. He submitted that it is a fit case where custodial interrogation of the petitioner is required because the parties had exchanged bullets and it is yet to be determined as to what type of pistols were used and as to whether they were licenced or not and for the purpose of elicitation of truth, the custodial interrogation is required.

I have heard the learned counsel for the parties.

In the present case FIR has been registered by both the parties and there had been exchange of fires and gunshot injuries had been received by both the parties. As per the learned State counsel in the CCTV footage the petitioner and the other persons had come to the place of the complainant, although which shows that they were carrying only sticks. The argument raised by the learned counsel for the petitioner that the other party was the aggressor party is yet to be ascertained and the investigation of the case is being carried out. For the purpose of considering the grant of anticipatory bail a balance has to be struck between the liberty of an individual on the one hand and the other factors namely the severity and the magnitude of the offence apart from its effect upon the society. In the present case the allegations on the face of it are severe and of high magnitude where both the parties had exchanged fires and it is yet to be determined as to who was the aggressor party and what kind of arms were used and, therefore, this Court does not deem it fit and proper to grant the concession of anticipatory bail to the petitioner.

Consequently, the present petition is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

09.12.2021

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No