

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-5426-2022 (O&M)
Date of Decision :25.02.2022

Gurjit Singh

....Petitioner

VERSUS

State of Punjab and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. H.S.Multani, AAG Punjab.

Mr. I.S.Kooner, Advocate for the complainant.

ALKA SARIN, J.

Taken up through video conferencing.

This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for issuance grant of anticipatory bail to the petitioner in FIR No.002 dated 02.01.2022 registered under Sections 307, 323, 341, 506, 34 of the Indian Penal Code, 1860 (IPC) and Sections 25 and 27 of the Arms Act, 1959 at Police Station City Rajpura, District Patiala.

The present FIR was registered on a complaint dated 01.01.2022 made by the complainant-Naveen Kumar against Sonu Financier, Gurjit Singh @ Monu (the present petitioner) and one unknown person to the effect that the complainant is a driver of the truck and his father Ram Avtar has a Rehri for sale of eggs. The complainant used to go to the Rehri to help his father after finishing his work. On 31.12.2021 the complainant and his father were present at the Rehri as usual and at about 9.40 pm a Swift car came in which two Sikh gentlemen were seated one of

whom was Sonu financier and the identity of the other person was unknown at that point of time. The said two persons came to the Rehri and asked for eggs. However, they were told that the business has been wound up for the day and that they were proceeding to the house after closing and hence were unable to give the eggs to them. Thereafter, the said two persons started abusing the father of the complainant. When the complainant asked the said persons as to why they were abusing, they got into a scuffle and pushed the complainant. Thereafter, one of the unknown assailants called another person on his mobile phone. After some time, a Skoda car came to the spot having a Delhi number plate. The occupants were Gurjit Singh @ Monu and an unknown person who was his servant working at the Kanda. All the said four persons surrounded the complainant and his father and started beating them. During the process, the present petitioner took out a pistol and fired three shots out of which one shot passed near the head of the complainant, the second shot passed near the chest of the complainant and the third shot hit the left knee of the complainant. The complainant and his father raised raula "*Maarta-Maarta*" and some passerby gathered on hearing the raula. On seeing the passer by the assailants fled from the spot.

Learned counsel for the petitioner would contend that the petitioner fired in self-defence and that the complainant had first attacked the petitioner and it was only in self-defence that he had fired and that he had no intention to commit any murder. Further, reliance has been placed on the alleged video recording of the incident which shows the complainant giving beating to the petitioner.

Mr. Multani, on instructions from ASI Jaspal Singh, has stated that the video recording sought to be relied upon by the learned counsel for

the petitioner is only an edited version of the recording inasmuch as the recording of the part when the petitioner fired the shots is not there. Learned counsel would contend that the said part has intentionally been deleted. It has further been contended that as per the CCTV footage, the petitioner is seen getting only one danda blow and no injury received by the petitioner has been reported and infact there is no MLR qua the same. Learned counsel would further contend that there is another FIR against the petitioner for having fired a shot at his wife being FIR No.107 dated 11.04.2018 under Sections 336, 227, 506 IPC and Section 27 of the Arms Act, 1959 registered at Police Station City Rajpura.

Learned counsel for the complainant has stated that the petitioner was part of the aggressor party and had attacked the complainant and his father. Learned counsel has further reiterated that the video recording sought to be relied upon by the learned counsel for the petitioner is an edited version and does not show the part where the petitioner had fired on the complainant. Learned counsel for the complainant has further contended that besides FIR No.107 dated 11.04.2018 there is another FIR bearing FIR No.182 dated 22.09.2021 registered at Police Station City Gurdaspur pending against the petitioner.

I have heard learned counsel for the parties.

The arguments raised by the learned counsel for the petitioner that the petitioner had fired in self-defence is not visible in the CCTV footage, which has been sought to be relied upon by the learned counsel for the petitioner. It is an admitted fact that the petitioner had fired a gun-shot which hit the knee of the complainant. Whether the said shot was fired intentionally or in self-defence cannot be gone into at this stage nor is there

any material on the record on which even a prima facie opinion can be formed. Prima facie, it appears that the Sections as stated in the FIR are made out.

Keeping in view the totality of the circumstances and the fact that the admittedly a fire arm injury was given to the complainant, which hit his knee, I do not find this to be a fit case for grant of anticipatory bail.

The present petition is accordingly dismissed. Pending applications, if any, also stand disposed off.

It is made clear that any observation made herein shall not be treated as an opinion of expression on the merits of the case.

February 25, 2022
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO