

207

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-7116-2022

Date of Decision: 08.03.2022

Vishu Kumar @ Vishu Kainth

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. J.S. Dadwal, Advocate, for the petitioner.

Mr. C.L. Pawar, Senior Deputy Advocate General, Punjab

\*\*\*\*

**Through Video Conferencing**

**JASGURPREET SINGH PURI, J. (Oral)**

Affidavit of Assistant Commissioner of Police (North),  
Ludhiana dated 08.03.2022 has been filed which is taken on record.

The learned counsel for the petitioner has stated that he has  
received the copy of the affidavit and has perused the same.

The present petition filed under Section 438 of the Code of  
Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR  
No.0001 dated 04.01.2022, under Sections 307, 506, 120-B and 34 IPC and  
Section 35, 27 of Arms Act, registered at Police Station Jodhewal, District  
Ludhiana.

As per the allegations contained in the FIR which was lodged  
on the basis of a statement made by one Gurpreet Singh that he is 21 years

old and is a student of B.A. Part-3 at G.G.N. Khalsa College Ghumar Mandi at Ludhiana and in the evening when he was present in his house alongwith his mother and sister, then they heard gun fire shot from outside their gate and then his mother suddenly opened the gate, then persons from outside fired gun shots inside their house and gave a gun fire shot towards them with an intention to kill the complainant and the complainant suddenly put his head down and gun fire had crossed above him and he rushed to the room. Thereafter, accused persons fired other 3 gun shots towards his mother with an intention to kill her but she immediately rushed towards the kitchen. Thereafter, on raising alarm, the complainant and his family members saw that 3 young men armed with weapons, out of which one was the petitioner namely Vishu Kainth and 2 unknown persons to whom he did not know but can identify if they appeared before him, fled away from the spot alongwith their weapons on a black colour motorcycle by threatening to kill them. It has been further stated in the FIR that the cause of grudge was that the complainant is going to be elected as President of the college but one of the co-accused namely Amanjot Chauhan, petitioner and some other boys shouted and made him as Vice-President and appointed Amanjot Chauhan as President. It was due to this reason that the aforesaid offence was committed.

The learned counsel for the petitioner has submitted that in the present case no injury was caused to anybody and petitioner and the complainant are the students and there is nothing on the record to show that the petitioner had come to the house of the complainant and had fired gun shots. He further submitted that the other co-accused namely Amanjot

Singh has been granted anticipatory bail by the learned Sessions Court vide Annexure P-2. He further submitted that petitioner is not involved in any other case and, therefore, he may be considered for the grant of anticipatory bail.

On a specific query being put to the learned counsel for the petitioner as to whether the petitioner has any licenced weapon, he submitted that the petitioner does not have any licence for holding any weapon.

On the other hand, Mr. C.L. Pawar, learned Senior Deputy Advocate General, Punjab while referring to the affidavit has submitted that it is a case where the petitioner alongwith two more persons having a grudge against the complainant regarding the election to the post of President of the College had come on the motorcycle to the house of the complainant and had fired gun shots at the complainant, his mother and his sister. He further submitted while referring to the affidavit filed by the State that during investigation, four empty shells were recovered out of which three shells were of 7.65 mm 32 Bore Pistol and one shell was of 7.62 mm 30 Bore Pistol which were taken into possession by the police vide separate recovery memo. Further, the CCTV footages from the nearby places were also examined in which three persons were seen coming and going on a motorcycle which was black in colour. He further submitted that the petitioner does not possess any licence of any weapon and he has been specifically named in the FIR by the complainant identifying him and empty shells have also been found on the spot. He further submitted that in view of the aforesaid position, the custodial interrogation of the petitioner would be required for elicitation of truth and as to know the source of the pistols which

were used in this offence particularly considering the fact that the petitioner does not have any licence to possess the weapon. He further submitted that so far as the bail granted to the other co-accused is concerned, the same was granted on the ground that the other co-accused was not present on the spot and during investigation it is yet to be ascertained the modus operandi adopted by the accused persons which led to the present offence. He has therefore vehemently opposed the grant of anticipatory bail to the petitioner.

I have heard the learned counsel for the parties.

The petitioner has been specifically named in the FIR which was lodged by the complainant and specific role has been attributed to the petitioner that he alongwith two other persons had fired shots after coming to his house which were not only against complainant but also against his mother and sister and the dispute was pertaining to some post of President of a College. As per the affidavit filed by the State empty shells were recovered on the spot and the petitioner does not possess any licence for holding any weapon. Three shells were pertaining to 32 Bore Pistol and one shell was pertaining to 30 Bore Pistol and as per the affidavit even CCTV footages were examined in which three persons were seen coming and going on the motorcycle black in colour. The grant of bail to the other co-accused by the learned Sessions Court on the ground that he was not present on the spot cannot confer any right upon the petitioner for seeking bail on the ground of parity. The allegations contained in the FIR coupled with the gravity and magnitude of the offence wherein two pistols were used and four empty shells were recovered would disentitle the petitioner for grant of bail.

Therefore, finding no merit in the present petition, the same 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.

**08.03.2022**

rakesh

Whether speaking  
Whether reportable

**(JASGURPREET SINGH PURI)**  
**JUDGE**

: Yes/No  
: Yes/No