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

CRM-M-7955-2022 (O&M)
Date of decision : 24.02.2022

Mushraf

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Rosi, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.356 dated 28.10.2021 registered under Sections 148, 149, 186, 224, 225, 332, 353, 307, 379-B, 120-B of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station Punhana, District Nuh.

Learned counsel for the petitioner has submitted that in the present case, the petitioner has not been attributed any injury and the injury has been attributed to Sajid who has already been granted

anticipatory bail by the Additional Sessions Judge, Nuh vide order dated 14.12.2021.

This Court has heard the learned counsel for the petitioner and has perused the paper book.

FIR, in the present case, has been registered on the application moved by SI Sumit who had stated that he alongwith other police officials had gone on Government vehicle for arresting the wanted accused Musharaf (petitioner) who was required in FIR No.174 dated 26.08.2021 and it was learnt from the Secret Informer that the accused-petitioner was present in his house and in case, raid is conducted then he could be apprehended. On receiving the said information, the Police Party alongwith the Secret Informer reached at the house of the petitioner for arresting him on 27.10.2021 at about 9.40 pm, and had apprehended the petitioner with the help of the police officials but the said petitioner started shouting that the police has caught him and due to the noises, 30-35 persons reached there and Head Constable Suresh had started making video through his mobile phone and one person had then said that he was the brother of Sakir Sarpanch and while talking to the Sarpanch on the phone, he stated that his brother Sakir had told him that the accused is not to be taken away and thereafter, the police party was attacked with lathis and dandas by the mob which then took back the petitioner from the custody of the police and the petitioner then started his farm track tractor which was standing at his house and with the intention to kill the police party, tried to run over the police officials and the police officials had to

run here and there for saving their lives. In the above incident, three police officials were injured including the complainant.

It is not in dispute that the petitioner is an accused in FIR No.174 dated 26.08.2021 under Section 380 of the IPC, Police Station Nagina, District Nuh. It is apparent that in order to arrest the accused/petitioner, the police party had gone to the house of the petitioner and by shouting, he had called 30-35 people, who had then taken the petitioner out of the police custody and the petitioner had even attempted to run over the police officials with his tractor and in that process, three police officials were also injured. The petitioner is the main accused and is also a habitual offender, as earlier, he was involved in FIR No.174 dated 26.08.2021 as well. The act alleged to have been committed by the petitioner, is very serious in nature as he had tried to stop the police officials from discharging their duty.

A perusal of the order dated 04.02.2021 (Annexure P-2) passed by the Additional Sessions Judge, Nuh would show that the petitioner had earlier also filed an application for anticipatory bail, which was dismissed as withdrawn on 19.01.2022. Nothing has been stated to show as to what were the changed circumstances entitling the petitioner to file the second anticipatory bail application before the Sessions Court. The Additional Sessions Judge, Nuh had considered the case on merits and had observed that it was the petitioner, who is the main accused and was earlier involved and wanted in another FIR and had tried to crush the police party under his tractor and the offence under Section 307 of the

IPC had been specifically attributed to the petitioner. It was also observed that the petitioner had been evading his arrest for the last three months and had filed the said second anticipatory bail on 28.01.2022. It was also stated that the case of the other co-accused was on different footing inasmuch as the present petitioner was the main accused. Reliance sought to be placed upon order dated 14.12.2021 (Annexure P-3), by the petitioner, would also not entitle the petitioner to grant of anticipatory bail. A perusal of para 3 of the said order would show that even as per the arguments raised by the learned counsel for co-accused Sajid, it had been stated that the offence of attempt to murder had been alleged against Mushraf and not against co-accused Sajid (applicant therein). In para 6 of the order, it was observed that Sajid had no criminal antecedents whereas, in the present case, the present petitioner is involved in another FIR and has criminal antecedents. It was also observed in the said order that the said Sajid (applicant therein) had been identified by Secret Informer in a Video Clip and the said identification was stated to be doubtful. In the present case, the petitioner is the main person who had to be arrested by the police and his identification has never been in doubt. Further, in para 6 of the order dated 14.12.2021, one fact that no specific injury has been attributed to Sajid, seems to have been wrongly recorded inasmuch as per the FIR, as pointed out by the learned counsel for the petitioner, injuries had been attributed to Sajid. However, the said fact alone would not entitle the petitioner to grant of concession of anticipatory bail. The offence committed by the petitioner is of serious nature and his custodial

interrogation is also required to get the tractor in question recovered.

Keeping in view the abovesaid facts and circumstances, the present petition for grant of anticipatory bail to the petitioner is dismissed.

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.

24.02.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No