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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-14726-2022
Date of Decision: 07.04.2022

Rahul

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Piyush Sharma, Advocate, for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

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.68 dated 26.06.2021, under Sections 307, 323, 506, 148 and 149 IPC and Section 25, 27 of Arms Act, registered at Police Station Kulgarhi, District Ferozepur.

As per the allegations contained in the FIR which was lodged on the basis of statement made by one Vishal Kumar that he does labour work and they are two brothers and one sister and on 26.06.2021 at about 1.00/1.30 P.M when he and his uncle Aman were standing in the temple situated opposite to their house, then from the roadside Rahul (Petitioner), Karan and Manpreet @ Nikka crossed while staring at them and told them that if they want to mess with them, then they started giving pushes to them.

Manpreet @ Nikka called some more boys namely Laakhan and Harish who

were carrying pistols and Gaurav who was armed with baseball and they started abusing them in high voice. They also started hurling bricks and stones, out of which one stone hit on the window. The complainant went on the roof to watch them and he hid himself behind the door, then the abovesaid Laakhan fired upon his pistol straight towards him with an intention to kill him and the bullet piercing the door entered into his left bicep and crossed and then he fired twice and Harish also fired from his pistol and rest of the other abovesaid persons namely, Rahul (Petitioner), Manpreet @ Nikka, Karan and Gaurav hurled bricks and stones out of which one hit on the left side of the head of his grand-father namely Jaspal and then his other family members raised voice. Thereafter, all the accused left the place while giving them threats and thereafter the uncle of the complainant got him admitted in the hospital for medical treatment. It has been further stated in the FIR that the motive behind the occurrence was that Manpreet @ Nikka used to stare them while crossing and because of stopping them they have caused firearm injuries with an intention to kill.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and even as per the allegations contained in the FIR the role attributable to the petitioner was only using bricks and stones alongwith some of the other co-accused which hit on the left side of the head of the grand-father of the complainant. He further submitted that the firearm injury as stated in the FIR itself was not attributable to the petitioner and it was attributable to one Laakhan. He further submitted that the petitioner is involved in more case under Section 307 IPC which he has stated in para No.14 of the petition. He has further referred to an affidavit filed by the complainant Vishal in which it has been

stated that the matter has since been compromised.

On the other hand, Mr. Davinder Bir Singh, learned DAG, Punjab has submitted that it is a case where a gang of number of persons had collectively attacked the complainant and one of the co-accused had also fired at the complainant and the complainant received injuries. He further submitted that Laakhan and Harish have been arrested in this case but the petitioner is absconding. He further submitted that the firearm/pistol has been used in the crime and the petitioner was a part of the gang which had collectively attacked the complainant and the mere fact that as per the FIR his role was pertaining to giving of injuries to the grand-father of the complainant by bricks and stones would not vest a right in the petitioner to claim anticipatory bail since his custodial interrogation is required to ascertain the truthful position with regard to his role and also from where the firearms were taken and used as the petitioner does not have any kind of licence in his name. He further submitted that now-a-days illegal weapons are being used and in order to know the source of the same, the custodial interrogation of the petitioner is required, although as per the allegations he was not holding the pistol in his hand. He further submitted that apart from the same considering the antecedents of the petitioner that he is also involved in one other case under Section 307 IPC, he is not entitled for the grant of anticipatory bail.

I have heard the learned counsel for the parties.

As per the FIR the petitioner came and challenged the complainant and thereafter other co-accused were called who were holding baseball and arms and one of the co-accused allegedly fired a shot which hit the complainant. A perusal of the MLR of the complainant would show

three injuries on the complainant. One wound 1.5 cm X 1 cm was present on the antero lateral aspect of left arm and , therefore, Ortho consult and Ballistic opinion was also recommended. Second injury was 1.5 cm X 1 cm was present on postero-medial aspect of left forearm about 15 cm upwards from left elbow and for this also forensic and Ballistic opinion was recommended and the third was of reddish abrasion of 2 cm X 1 cm present on left side of chest about 13 cm laterally forwards from left nipple and so far as the weapon used is concerned, it has been opined that the same can be done after the Ortho and Ballistic report. The argument raised by the learned counsel for the petitioner that the role attributable to the petitioner was not of using firearm but of using bricks and stones and, therefore, he is entitled for the grant of anticipatory bail is not acceptable. A perusal of the FIR itself would show that the incident started allegedly at the instance of the petitioner and 2 more accused and thereafter, a number of other accused were called who were holding arms and pistols. Allegedly the petitioner was a part of the unlawful assembly. The medical report suggests various injuries on the complainant and the Ballistic report/forensic report as per the learned counsel for the parties is yet to come. However, when in an offence where firearms have been used it cannot be said that the role of the other co-accused who used bricks is not serious once an accused is part of the gang. The other argument raised by the learned counsel for the petitioner that the complainant has now filed an affidavit by which he has entered into an compromise would also be not of any avail to the petitioner in view of the fact that once firearms have been used in the incident, the source and uses of the same has to be ascertained and interrogated in depth.

Apart from the same, the petitioner is also not having clean antecedents

and is involved in other case bearing FIR No.151 dated 09.11.2021, under Sections 307, 341, 506, 148, 149 and 120-B IPC and Section 25, 27 of Arms Act, registered at Police Station Kulgarhi, District Ferozepur.

In view of the above, considering the gravity of the matter, this Court does not deem it fit and proper to grant anticipatory bail to the petitioner.

Consequently, 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.

07.04.2022

rakesh

(JASGURPREET SINGH PURI)**JUDGE**

Whether speaking

: Yes/No

Whether reportable

: Yes/No