

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

CRM-M-20028-2022

Date of decision : 12.05.2022

Lakhwinder Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Veneet Sharma, Advocate for the petitioner.
Mr. Harpreet Singh Multani, AAG, Punjab.

MANOJ BAJAJ, J.

Petitioner has approached this Court under Section 438 Code of Criminal Procedure to seek anticipatory bail in case FIR No.44 dated 16.05.2020 under Sections 307, 411, 148 and 149 Indian Penal Code, 1860 and Sections 25 and 27 Arms Act, 1959 registered at Police Station GRP, Amritsar, District Govt. Railway Police, Amritsar, who apprehends his arrest at the hands of Police.

The allegations in the FIR as noticed by the learned Additional Sessions Judge, Amritsar in the order dated 12.10.2021 are as under:-

“Perusal of the file reveals that the present case has been registered against the accused-applicant alongwith his co-accused on the basis of statement Lakhbir Singh, who in his statement stated that on 16.5.2020 at about 8:00 AM, Sahil Singh son of his brother Beer Singh and son of Sukh Dairy were quarreled with each other while playing and thereafter, they went to their houses. Son of his brother Beer Singh received a call on his mobile phone from Manak that they will teach them. He thought to make understand Manak and Kishore etc. At about 8:10 PM, he was going to make them understand. When he reached near Railway Station, Chheharta, then Ankush, Lakhwinder Singh, Manak and his father Kishore were

standing there. He talked with Ankush and Lakhwinder Singh that altercation took place between the children and asked them to sit and patch up the matter. In the meanwhile, his brother Beer Singh and Sajan @ Sai reached there. Ankush and Lakhwinder Singh started abusing him. When they were talking with each other, then Ankush took out the pistol and fired a shot towards him which hit upper portion of his left knee. As a result of which, he fell down and blood started oozing. In the meantime, Lakhwinder Singh took out pistol and fired a shot towards his brother Beer Singh which hit on his left arm. As a result of which, blood started oozing. Then, Ankush fired from his pistol which hit on left thigh of Sajan Sai. When, they raised alarm of Mar Ditta Mar Ditta, then Ankush and Lakhwinder Singh fled away from the spot with their respective weapons while firing and threatening to them. His son Kanwaljit Singh got admitted them in Civil Hospital, Amritsar after arranging the vehicle.”

Learned counsel for the petitioner refers to Annexures P-2 to P-4 to contend that the compromise has been arrived at between the parties with the intervention of the respectables and the dispute has been amicably settled. According to him, the prosecution of the petitioner would be a futile exercise and prays for pre arrest bail.

On the other hand, learned State counsel has opposed the prayer on the ground that the offences committed are serious in nature. According to him, in such type of heinous crimes, compromise is meaningless and prays for dismissal of the petition.

During the course of hearing, it is not disputed by learned counsel that previously also the petitioner had approached this Court through CRM-M-8943-2021 to seek pre arrest bail and considering the merits, this Court vide decision dated 25.2.2021 declined the prayer.

After hearing learned counsel for the parties, this Court finds

that the solitary ground of compromise raised in the petition is not worth acceptance. At this stage, it will be useful to refer the decision in “*The State of Madhya Pradesh Vs. Laxmi Narayan and others*”, 2019 AIR (SC) 1296, the Hon'ble Supreme Court has laid down the principles for quashing of the criminal proceedings in non-compoundable offences by exercising inherent powers under Section 482 Cr.P.C. The relevant portion of the judgment is extracted below:

“13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove.”

From the aforesaid observation of Hon'ble the Apex Court, it is apparent that the factum of compromise in relation to the offences has no significance. As per allegations in the FIR, the assailants were armed with firearm weapons, who fired gunshots and caused injuries to the victims. Therefore, the compromise relied upon by the petitioner is rejected.

Resultantly, without meaning any expression or opinion on the merits of this case, no case is made out for grant of extra ordinary concession of pre-arrest bail to the petitioner.

Dismissed.

(MANOJ BAJAJ)
JUDGE

12.05.2022
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No