

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

110

CRM-M-23757 of 2022
Date of decision:27.05.2022

Avtar Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. K.B.Raheja, Advocate
for the petitioner.

Mr. Amandeep Singh Gill, Sr. DAG, Punjab.

SUVIR SEHGAL, J.

Instant petition has been filed under Section 438 Cr.P.C., seeking grant of anticipatory bail to the petitioner in case FIR No.37 dated 26.03.2022 registered under Sections 307, 452, 336, 323, 506, 354, 148, 149 of Indian Penal Code, 1860 and Sections 25 and 27 of Arms Act, 1959 at Police Station Mamdot, District Ferozepur (Annexure P-1).

Version of the prosecution is that FIR (Annexure P-1) has been registered on the statement of Avtar Singh on the allegation that he and his brother suspected Onkar Singh @ Bagga Lohria of having taken the nozzle of their spray pump. When Gabbar Singh, brother of Onkar Singh, came to their house and was questioned, he got agitated, used filthy language and made a call at his home. When the complainant and his brother, Nirvair Singh reached back home, Onkar Singh armed with a stick, Avtar Singh, (present petitioner) armed with a pistol, Rasal Singh @ Gabbar armed with

a stick alongwith two other unidentified persons came on a white color Verna car with registration number of Delhi. Ranbir Singh @ Rana armed with a 12 bore single barrel and an unidentified person came on a motorcycle. On instigation by Onkar Singh, they entered his house, Avtar Singh (present petitioner) fired 3-4 shots from his pistol which hit the ground. Ranbir Singh @ Rana fired from his 12 bore single barrel gun and the pellets hit his knees. Surjit Singh, who had come with the complainant's brother Nirvair Singh, rushed to the spot and Gabbar @ Rasal Singh hit the complainant with a stick. When ladies from the family came forward to save them, Onkar Singh pushed Gurwinder Kaur. On an alarm being raised, inhabitants of the village gathered and the accused fled away with their weapons.

Counsel for the petitioner contends that no injury has been attributed to the petitioner and his entire family has been falsely framed. It has been submitted that the petitioner possesses a licensed weapon, which he has never used and the FIR is an outcome of a past rivalry between the parties. He has placed reliance upon the judgments of this Court in **Pardeep Vs. State of Haryana 2014(31) RCR (Criminal) 540, Bimla and another Vs. State of Haryana 2014(25) RCR (Criminal) 309 and Ran Singh Vs. State of Haryana 2002(4) AICLR 984.**

Advance copy of the petition has been served upon the State.

Upon instructions from SI Gurwinder Singh, State counsel submits that empty shells have been recovered from the place of occurrence

and the presence and role of the petitioner is not in doubt.

I have considered the respective submissions of counsel for the parties.

Narration of events as given in the FIR (Annexure P-1) shows that petitioner alongwith co-accused Ranbir Singh armed with weapons alongwith other co-accused came with a predetermined mind, fired at the complainant and attacked his family members at their home. Recovery of empty shells has been made from the spot.

Reliance placed by counsel for the petitioner upon judgments of this Court will be of no help to him. In **Pardeep's case (supra)**, this Court found that Section 307 IPC was added later on by fabricating the injuries and during investigation, the petitioner therein was found to be innocent and had been summoned to face trial as an additional accused under Section 319 Cr.P.C. **Bimla's case (supra)** was a case of version and cross-version and Medical Board had opined that the alleged injury on the person of the complainant is not possible by a firearm as had been claimed by him and was declared to be simple in nature. In **Ran Singh's case (supra)**, none of accused possessed any firearm and this Court found that there was variation in the version given by the witnesses with regard to injuries and there was probability of story being concocted.

Keeping in view the totality of the facts and circumstances, active role ascribed to the petitioner, nature of allegations against him and probability of commission of offence by him, this Court is of the view that

concession of pre-arrest bail cannot be extended to him.

Finding no merit in the petition, it is hereby dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

May 27, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>