

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

**CRM-M No.27731 of 2021
Date of Decision: 04.02.2022**

Manish Kumar @ Manni

.....Petitioner.

Versus

State of Haryana

.....Respondent.

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Jatinder Nagpal, Advocate
for the petitioner.

Mr. Apoorv Garg, DAG, Haryana
for the respondent-State.

MEENAKSHI I. MEHTA, J.

Apprehending his arrest in the criminal case pertaining to the FIR bearing No.163 dated 05.04.2021 registered at Police Station Adarsh Nagar, Ballabhgarh, District Faridabad under Sections 323, 307, 506 read with Section 34 IPC and Section 25 of the Arms Act, the petitioner has moved this petition for seeking the relief of anticipatory bail.

Bereft of unnecessary details, the allegations, as levelled by complainant Hem Singh in the present case, are that on 05.04.2021, he had gone to his shop in the vegetable market at Ballabhgarh. Accused Lokesh, Chaman, Harinder, Sachin and Chander and 2-3 unknown boys, who were

armed with country-made pistols and knives, came there and fired shots at him and at Chandan and Pardeep and thereby, caused injuries to them.

Status-report has already been filed on behalf of the respondent-State by way of the affidavit of Assistant Commissioner of Police, Ballabgarh.

I have heard learned counsel for the petitioner as well as learned State counsel in the instant petition and have also perused the file thoroughly.

It is worth-while to mention here that vide the order dated 26.07.2021, the Co-ordinate Bench had extended the relief of interim bail to the petitioner while directing him to join in the investigation. On 17.11.2021, learned State counsel had submitted that though the petitioner had joined in the investigation but he did not co-operate with the investigating agency and therefore, the petitioner was again directed to join the investigation within two weeks positively. However, on 21.01.2022, learned State counsel again apprised the Co-ordinate Bench that though the petitioner joined in the investigation but had not been co-operating in the same.

Today, learned State counsel has forwarded a Questionnaire to the Court through *e-mail* and the same has been placed on the file. He points out that the petitioner had given evasive answers therein to the questions posed to him by the investigating officer in connection with the alleged occurrence. A perusal of the same reveals that the petitioner has given evasive reply to most of the questions posed to him by submitting

that he was under the influence of liquor and did not remember as to where Harinder had dropped him and as to where he had thrown the SIM card after destroying the same and as to who had returned his mobile phone as claimed to have been handed over by him to his friend Varun.

Faced with this situation, learned counsel for the petitioner contends that the name of the petitioner does not find mention in the FIR and he has been nominated as an accused in this case merely on the basis of the disclosure statements as alleged to have been suffered by his co-accused and moreover, all the three above-named injured, when examined as PW1 to PW3 in the trial Court, have turned hostile and the co-accused of the petitioner named Akash and Varun have been granted the relief of regular bail by the Court below on this ground and in these circumstances, the petitioner deserves the relief as prayed for in the present petition.

Per contra, learned State counsel argues that in the said FIR, the complainant, besides naming some of the co-accused of the petitioner as the assailants, has also specifically disclosed about the participation of 2-3 unknown boys in the occurrence and the co-accused of the petitioner named Varun, Akash and Harinder have suffered disclosure statements regarding the active participation of the petitioner in the crime and keeping in view the gravity of the offence committed by the petitioner, this petition be dismissed.

Though the name of the petitioner does not find specific mention in the FIR but it is worth-while to mention here that while naming some of the assailants in the said FIR, the complainant-injured has

categorically alleged that they were accompanied by 2-3 unknown boys who were armed with country-made pistols and knives and the assailants had fired shots at him as well as at Chandan and Pardeep.

A perusal of the disclosure statements allegedly suffered by all the three afore-named co-accused of the petitioner, reveals that they have specifically disclosed therein that the petitioner had fired shot at Hem Singh. To add to it, it has also been mentioned in Para 8 of the Status-report that in the CCTV footage, the petitioner was shown to be present, along-with his co-accused, at Oyo Hotel in Ballabhgarh and according to the Call Detail Record (CDR), the presence of the petitioner as well as of his co-accused at the spot was explicit and this record had been submitted along-with the Challan. In these circumstances, it is quite clear that the petitioner has not been nominated as an accused in the present case merely on the basis of the said disclosure statements of his above-named co-accused.

The depositions, as made by the afore-named injured while appearing in the witness-box as PW1 to PW3, are of no avail to the petitioner because the same were recorded during the course of the trial against some of his co-accused whereas the investigation is still pending qua him and therefore, the Challan has not yet been presented against him. Moreover, the afore-named co-accused of the petitioner have been granted the relief of regular bail by the trial Court whereas in this petition, the petitioner is seeking the relief of anticipatory bail.

Keeping in view the above-discussed facts and circumstances, coupled with the non-co-operative attitude of the petitioner in the

investigation, this Court is of the considered opinion that he does not deserve the relief of pre-arrest bail.

Resultantly, the petition in hand stands dismissed.

However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

February 04, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*