

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-29207-2019 (O&M)
Date of Decision:-12.9.2022

Rajender and another ... Petitioners

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Bijender Dhankar, Advocate for the petitioners.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Naresh Kumar.

Mr. Kanwar Abhay Singh, Advocate for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioners have approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.113, dated 17.6.2019, Police Station Barauda, District Sonapat, under Sections 307 and 34 of Indian Penal Code.
2. Today, at the very outset, learned counsel for the petitioner submits that he may be permitted to withdraw the present petition qua petitioner No.1- Rajender as he already stands arrested in connection with another case.
3. In view of the aforesaid submission, the instant petition qua petitioner No.1 is hereby dismissed as withdrawn.

4. The case of the prosecution, in nutshell, is that the petitioner-Sunil son of Jai Bhagwan was sitting in a car driven by co-accused Rajender and that the said car had intentionally been driven by Rajender in such a manner so as to hit against the complainant Sunil Kumar son of Ram Kumar as well as his uncle Jasbir as a result of which both of them fell on the bonnet of car and were driven for about half a kilometer and when they fell down, the car ran over the feet of both of them.
5. Learned counsel for the petitioner submits that, even if, all the allegations are taken to be correct, no role can be attributed to the petitioner since he was merely a passenger sitting alongwith co-accused Rajender, who was at the wheel. It has further been submitted that there is nothing on record to show that the petitioner shared any *mens rea* with the co-accused and that, in these circumstances, the petitioner deserves the concession of anticipatory bail.
6. Learned counsel for the petitioner has further submitted that it is infact a case of cross-versions, wherein another FIR i.e. FIR No.145, dated 5.6.2020, Police Station Barauda, District Sonipat, under Sections 148, 149, 307, 323, 325, 341, 346 and 427 of Indian Penal Code was lodged against the complainant.
7. Learned State counsel has informed that the cross-version lodged vide FIR No.145, dated 5.6.2020, was duly inquired into and was found to be false and that a cancellation report had already been presented in the said case. Learned State counsel has submitted that the manner, in which the occurrence has taken place, clearly shows that both the accused were hands in gloves with each other for the purpose of making an attempt to kill the complainant.

8. The learned counsel representing the complainant has vehemently opposed the petition and has submitted that it is a case where the accused owed some money to the complainant and did not repay the same despite having been asked for the same and on account of which both the accused planned to kill the complainant and his uncle Jasbir.
9. Learned State counsel, upon instructions from ASI Naresh Kumar, has, however, informed that pursuant to interim directions, the petitioner has joined investigation but is not fully cooperating inasmuch as he has not signed on the statement made by him during the course of interrogation. It has, however, been informed that the petitioner otherwise is not involved in any other case.
10. This Court has considered the rival submissions.
11. The question as regards the attribution of *mens rea* to the petitioner would be debatable inasmuch as he was sitting on the passenger seat of the car, which was being driven by co-accused Rajender. In these circumstances, particularly the fact that the petitioner has a clean record, he certainly deserves the concession of anticipatory bail. The contention of the learned State counsel that the petitioner has not signed on certain statements during the course of interrogation cannot be made a basis for declining anticipatory bail inasmuch as the petitioner cannot be forced to make a statement particularly any self inculpatory statement.
12. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 12.7.2019 are hereby made absolute, subject to the condition that the petitioner shall join investigation as and when called upon

to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.

12.9.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No