

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

CRM-M-40228-2021
Date of Decision: 31.03.2022

Vivek Sharma

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amitabh Tewari, Advocate and
Ms. Mahima Gupta, Advocate for
for the petitioner.

Mr. N.S. Panwar, DAG, Haryana.

Mr. Sandeep Kumar, Advocate for
Mr. G.C. Shahpuri, Advocate
for the complainant.

JASGURPREET SINGH PURI, J.(ORAL)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No.123, dated 30.05.2021 under Sections 148, 149, 323, 307, 506, 120-B and 201 IPC, 1860 registered at Police Station Farakpur, District Yamuna Nagar.

2. As per the contents of the FIR which was registered on the basis of the complaint made by one Rohit Lotan that he had received a phone call from one Sachin Pandit that the co-accused Vipin Mahant is abusing him and calling him to Ladwa and when the aforesaid Sachin Pandit went there then there were some friends of Sachin Pandit who were sitting there. Thereafter, some persons came on vehicles and Vipin Mahant raised a lalkara by saying that Sachin Pandit will be killed because he interferes in his work and thereafter Vipin Mahant with an intention to kill him fired a shot at him which

hit his chest and crossed his body. The name of the other co-accused Sonu has also been mentioned in the FIR and it is stated that the other names are not known to the complainant.

3. Learned counsel for the petitioner has submitted that the name of the petitioner did not figure in the FIR and the same has been nominated on the basis of disclosure statement of Vipin Mahant and Sonu and has also submitted that it is merely on the basis of suspicion and the petitioner neither possess any licenced weapon nor he has any other weapon with him and in fact, no CCTV footage was recovered from the place of occurrence but from some other place a CCTV footage was taken whereby the petitioner had one hand in his pocket and in the other hand he was holding a mobile phone and therefore, so far as the present petition is concerned, he may be considered for the grant of anticipatory bail. Learned counsel has further submitted that in pursuance of the order passed by this Court dated 27.09.2021, the State has also filed an affidavit in the present case and thereafter in pursuance of the order passed by this Court on 11.10.2021, whereby the petitioner was granted interim bail, he has already joined the investigation and has cooperated in the investigation process. Learned counsel for the petitioner has submitted that the petitioner is not involved in any other case and has clean antecedents and has therefore prayed that the interim bail may be confirmed.

4. On the other hand, Mr. Naveen Singh Panwar, learned DAG, Haryana while referring to the affidavit filed by the State has submitted that in pursuance of the order passed by this Court on 11.10.2021, the petitioner has joined the investigation but he has raised only objection that the petitioner has not got recovered the country made pistol weapon and as to from where he has sought the weapon and shot the injured Sachin Pandit. He has submitted that it is correct that the petitioner is not involved in any other case. While referring

to paragraph No.10 of the affidavit, he submitted that as far as the appearance of the petitioner in the CCTV with pistol is concerned, in this regard in fact, at the place of occurrence of firing, no CCTV camera was installed. However, during the course of the interrogation, the petitioner has admitted that he had fired with a desi katta (country made pistol) on Sachin Pandit with an intention to kill him and since the aforesaid country made pistol has not been recovered as yet, the petitioner has not cooperated to that extent.

5. However, replying to the submissions made by the learned State counsel, it has been submitted by the learned counsel for the petitioner that a statement made by the petitioner before the police officer is not admissible in evidence and the petitioner never possessed any kind of country made pistol and therefore there was no question of getting it recovered and therefore, the plea raised by the learned State counsel is not sustainable and cannot become a ground for denial of bail to the petitioner. Learned counsel for the petitioner further submitted on instructions that the petitioner undertakes to continue joining the investigation and to cooperate in all respects, which is required by the Investigating Officer and considering his antecedents whereby the petitioner has totally clean antecedents and is not involved in any other case, his prayer for confirmation of the interim bail may be accepted.

6. I have heard the learned counsel for the parties.

7. In pursuance of the order passed by this Court on 11.10.2021, the petitioner has joined the investigation. However, learned State counsel has raised the objection that the petitioner has not got recovered the country made pistol. The same fact has been disputed by the learned counsel for the petitioner by saying that admittedly, as per the affidavit filed by the State, there was no CCTV footage of the place of occurrence and the petitioner has clean antecedents and does not possess any country made pistol and therefore,

such kind of objection raised by the learned State counsel is not sustainable. The petitioner has already joined investigation and has also undertaken to further cooperate with the investigation process as and when required by the Investigating Officer in all respects.

8. This Court is of the view that the aforesaid objection raised by the State, would not be sustainable. In view of the above, the present petition is allowed and the order dated 11.10.2021, by which the petitioner was granted anticipatory bail is hereby made absolute.

(JASGURPREET SINGH PURI)
JUDGE

March 31, 2022
Manpreet

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No