

203

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

CRM-M-38884-2020

Date of decision: 26.04.2022

SWARAN SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Sarbjit Singh, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. Gurjinder Singh, Advocate
for complainant.

SURESHWAR THAKUR, J. (ORAL)

1. The instant petition has been filed under Section 438 of Cr.P.C., whereins the present bail petitioner seeks indulgence of anticipatory bail.

2. In FIR No.153 of 20.06.2020, registered at Police Station Ajnala, District Amritsar (Rural), offences constituted under Sections 307, 323, 148, 149 of IPC, 1860, (Section 326 of IPC added later on), and, under Sections 25, 27 of Arms Act, are embodied.

3. The incriminatory role, as attributed to the present bail petitioner, is that his along with other co-accused concerned, making an assault, upon the victim concerned, through theirs respectively wielding, at the crime site, the incriminatory weapon(s) of offences.

4. This Court would become constrained to admit to anticipatory bail, the present bail petitioner in case the petitioner has ensured the making of recovery, at his instance, to the investigating officer concerned, of the

incriminatory weapon(s) of offence, and, also with a statement being made by the learned State counsel, that the condition of the victim is stable, in respect of both his mental, and, physical condition. In addition, this Court may also become constrained to admit to anticipatory bail, the present bail petitioner in case there is no tangible evidence adduced, at this stage, by the prosecution, suggestive that in the event of the petitioner being admitted to anticipatory bail, there is every likelihood of his fleeing from justice, and/or, tampering with the prosecution evidence.

5. The penal incident, occurred on 20.06.2020, and, the learned State counsel submits, that the bail petitioner cannot ensure the effectuation of recovery, at his instance, to the investigating officer concerned, of the incriminatory gun, as subsequent to the occurrence, on account of the licence issued in respect thereof, no longer surviving, it becoming deposited with the Arms Dealer, in the name and style of 'Pal Gun House'. The above deposit is stated to occur, on 17.01.2022. Consequently, *prima-facie* at this stage, the afore deposited incriminatory weapon of offence, as, became allegedly used at the crime site, by the present bail petitioner, and, when obviously it is not in his possession, and, when hence it cannot be recovered, at his instance, to the investigating officer concerned. Consequently, the investigating officer concerned, is directed to collect the afore incriminatory weapon of offence, from M/s Pal Gun House Arms & Ammunition Dealers, Chogawan Road, Ajnala, District Amritsar.

6. In addition, since the learned State counsel also submits, at the bar, that the mental, and, physical condition of the victim is stable, and, he has been discharged from hospital. Therefore, given above, and, also when at this stage, no tangible evidence becomes adduced by the prosecution, suggestive that in the

event of anticipatory bail being granted to the present bail petitioner, there is every likelihood of his fleeing from justice, and, tampering with the prosecution evidence, thereupon this Court becomes constrained to admit to anticipatory bail the present bail petitioner. Moreso, when it is also conjointly stated, at the bar, by the learned counsel for the petitioner, and, also learned counsel for the victim, that a compromise has occurred amongst all concerned, in respect of the offence(s) constituted in the FIR (supra).

7. Therefore, this Court does not deem it fit, and, appropriate to order for the custodial interrogation of the bail petitioner.

8. In summa the order as made, by this Court, on 10.02.2022, is made absolute on the same terms and conditions.

9. Disposed of.

(SURESHWAR THAKUR)
JUDGE

26.04.2022

ithlesh

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