

CRM-M-45649 of 2022

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

CRM-M-45649 of 2022
Date of decision: 29.11.2022

Ajit Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. P.S. Kanwar, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

Mrs. Amandeep Soni, Advocate,
for the complainant.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.0076 dated 26.05.2022 under Sections 307, 323, 34 IPC and Sections 25, 27 of the Arms Act, 1959 registered at Police Station Sirhali, District Tarn Taran.

Brief facts of the case are that the FIR was registered at the instance of Nirmal Singh son of Surinderpal Singh resident of Jawand Kalan to the effect that he is engaged in agriculture work. He has three brothers namely Pargat Singh, Gurdev Singh and Gurnek Singh. There is dispute regarding the land between the complainant and Gurnek Singh for

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about one or two years regarding which case is pending. Earlier also some dispute taken place and accused party had also harvest the wheat crop and same was objected by brother of the complainant Pargat Singh upon which Pargat Singh beaten up and his turban was also removed. On 26.05.2022 at about 7/8 p.m. complainant had gone to the fields for irrigation and there was dispute regarding the water. Gurnek Singh called his brother Ajit Singh (petitioner) and relative Gurpal Singh @ Pala. They were also accompanied by unidentified person who immediately reached at the spot and one unidentified person also reached at the spot. Ajit Singh (petitioner) armed with 12 bore rifle Gurpal Singh @ Pala armed with baseball and one unidentified person started calling bad names. Petitioner fired gun shot on the complainant with intention to kill him but complainant returned back and pellets of the gun shot fire hit on his backside of his left shoulder. The complainant raised alarm upon his brother Pargat Singh and Gurdev Singh came at the spot and above said person fled away from the spot after raising threats to life.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case. He further submits that co-accused of the petitioner, namely, Gurnek Singh and Rashpal Singh alias Gurpal Singh have been granted interim anticipatory bail vide order dated 02.09.2022 (Annexure P-1) and order dated 19.09.2022 (Annexure P-2) passed by this Court in CRM-M-39746 of 2022 (Gurnek Singh v. State of Punjab) and CRM-M-43198 of 2022 (Rashpal Singh alias Gurpal Singh v. State of Punjab), respectively. Learned counsel submits that nothing is to

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be recovered from the petitioner and he is ready and willing to join the investigation.

Per contra, learned State counsel has vehemently, opposed the prayer for grant of anticipatory bail to the petitioner by submitting that petitioner is the main accused and cannot claim parity with aforesaid co-accused as it is the petitioner who fired gun shot and the said fact has been recorded in the orders granting interim anticipatory bail to the aforesaid co-accused of the petitioner.

I have heard learned counsel for the parties and perused the record.

As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

There are specific allegations against the petitioner that he fired gun shots which hit on the person of injured. The allegations are serious in nature. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses.

In view of the facts and circumstances of the case, I am of the

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considered view that petitioner cannot prima facie be said to have been falsely enroped in the crime and his custodial interrogation is necessary in the case and that petitioner is likely to abscond and misuse his liberty and does not deserve grant of anticipatory bail.

In view of the above, the petition is dismissed.

29.11.2022
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No