

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

CRM-M-5813-2022

Date of Decision:-23.02.2023

Ranjit Singh @ Sonu.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

AND

CRM-M-48154-2022

Yuvraj Singh @ Raja.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Manbir Singh Basra, Advocate for the Petitioner
(in CRM-M-5813-2022).

Mr. K.S. Dhaliwal, Advocate for the Petitioner
(in CRM-M-48154-2022).

Mr. Shubham Kaushik, Assistant Advocate General, Punjab.

Mr. Ritesh Pandey, Advocate for the Complainant.

JASJIT SINGH BEDI, J.

By this common order I shall dispose of both the
aforementioned petitions as the same have arisen out of one and the same
FIR.

The Prayer in these petitions under Section 438 Cr.PC is for the
grant of anticipatory bail in case FIR No.127 dated 20.12.2021 under
Sections 307, 34 IPC and Section 25 of the Arms Act registered at Police

Station Sri Hargobindpur, District Gurdaspur.

The brief facts of the case are that statement of one Sukhraj Singh @ Sukha was recorded to the effect that he was an agriculturist. On 19.12.2021 at about 3.30/3.45pm he had gone to New Trend Salon at Harchowal for a haircut along with his friend Karan Singh @ Karan Aulakh. In the meantime Ranjit Singh @ Sonu Aulakh (petitioner in CRM-M-5813-2022) with whom they had an earlier dispute came inside Salon. He was carrying a 315 bore rifle and a 32 bore pistol. He fired at him (complainant) who sat down and the shot struck the wall of the Salon grazing his (complainant's) right arm. In the meantime Karan Aulakh caught hold of the petitioner-Ranjit Singh @ Sonu and snatched his rifle. A scuffle ensued in which the petitioner also received gunshot injuries at his (complainant's) instance by way of self defence. When his friend Karan Aulakh ran outside, three companions of Sonu Aulakh namely Yuvraj Singh @ Raja (petitioner in CRM-M-48154-2022) having a pistol and two unidentified persons carrying double barrel guns and one carrying a pistol fired shots at them (complainant party). The fired shots passed by, touching the jacket worn by his friend Karan Aulakh. The motive for the occurrence was that he (complainant) was the president of a party and Sonu Aulakh was the president of his rival party and there had also been an earlier altercation.

Based on the aforementioned complaint, the present FIR came to be registered.

The counsel for the petitioner-Ranjit Singh @ Sonu contends that it is a case of version and cross version. The petitioner also received firearm injuries on his body and a cross version bearing DDR No.10 dated 22.12.2021 stands registered against complainant Sukhraj Singh and Gurkaranbir Singh. The injuries on the persons of the petitioner are apparent from the MLR (Annexure P-2). In fact the petitioner had gone to the Salon where the complainant party snatched his rifle from him and fired shots at him. The whole occurrence had been captured in a CCTV Camera. The licenced weapon of offence stands recovered. Since the petitioner had joined investigation after the interim order passed by this Court, there was no requirement for custodial interrogation and the petitioner ought to be granted the concession of anticipatory bail.

The Counsel for the petitioner-Yuvraj Singh @ Raja on the

other hand contends that the petitioner has been falsely implicated in the present case at the instance of the complainant who is a habitual criminal with multiple cases registered against him. No specific injury has been attributed to the petitioner. As per the prosecution case the petitioner is stated to have stayed outside the Salon armed with a weapon. However, a CCTV footage of his own residence would show that at the relevant time he was at his home and not at the place of occurrence. Since the petitioner had joined investigation his custodial interrogation was not required and he could be granted the concession of anticipatory bail.

The Counsel for the State on the other hand with respect to the contentions of petitioner-Ranjit Singh @ Sonu contends that the petitioner is the main accused. The CCTV footage would clearly establish that the petitioner entered the Salon with his two licenced weapons and fired at the complainant party who received injuries. It was only subsequently during the course of a scuffle that the complainant is stated to have fired at the petitioner thereby causing injuries to him as well. The two weapons belong to the petitioner undoubtedly stand recovered but the nature of the allegations levelled against the petitioner and the manner in which the occurrence took place does not entitle him to the grant of anticipatory bail. In fact the petitioner is also an accused in FIR No.35 dated 26.5.2015 under Sections 447, 506, 427, 511, 148, 149 IPC and Section 25 of Arms Act P.S. Shri Hargobindpur (cancellation accepted), FIR No.117 dated 11.10.2018 under Sections 307, 427, 324, 323, 148, 149 IPC P.S. Shri Hargobindpur (under investigation), FIR No.253 dated 12.11.2020 under Sections 365, 341, 324, 323, 148, 149 IPC and Sections 25 & 27 of Arms Act P.S. Shri Hargobindpur (on bail), FIR No.95 dated 02.08.2008 under Sections 326, 324, 323, 452, 380 and 34 IPC P.S. Shri Hargobindpur (cancellation filed), FIR No.121 dated 09.07.2020 under Section 181 IPC P.S. Shri Hargobindpur (under investigation-on bail) and FIR No.24 dated 19.03.2021 under Sections 324, 323, 427, 148, 149 P.S. Shri Hargobindpur (on bail). Therefore, his criminal antecedents also did not entitle him to the grant of bail.

The learned State Counsel with respect to the contentions of the petitioner-Yuvraj Singh @ Raja submits that the CCTV footage would clearly show that the petitioner was armed and standing outside the salon.

All the accused had come together to commit the offence in question. In furtherance of the same, the petitioner also fired at the complainant party. The defence of the accused/petitioner that he was at home is also not borne out from the CCTV footage of the residence of the petitioner in which the time shown appears to have been tampered with. Even otherwise, the CCTV footage of the place of occurrence is clear and categoric and has also been shown to the counsel for the petitioner today. Since the recovery of the weapon is to be effected from the petitioner and he is an accused in four other cases bearing FIR No.112 of 2017 under Sections 324, 323, 341 IPC P.S. Bholath, Kapurthala (on bail), FIR No.45 dated 30.06.2015 under Sections 323, 324, 341, 379, 427, 148, 149 IPC P.S. Shri Hargobindpur (quashed upon compromise), FIR No.253 dated 12.11.2020 under Sections 365, 341, 324, 323, 148, 149 IPC and Sections 25 & 27 of Arms Act P.S. Shri Hargobindpur (on bail) and FIR No.24 dated 19.03.2021 under Sections 324, 323, 427, 148, 149 P.S. Shri Hargobindpur (on bail), he was not entitled to the grant of anticipatory bail.

The Counsel for the complainant has vehemently opposed these bail applications and contends that the manner in which the occurrence took place did not entitle the petitioners to the grant of anticipatory bail. They came armed with fire arms and caused injuries to the complainant. The entire occurrence has been captured in a CCTV camera both inside and outside the Salon. There was absolutely no justification for the petitioner-Ranjit Singh @ Sonu to enter the Salon armed with two of his licensed weapons. Therefore the intention was clear i.e. to cause the death of the complainant. Merely, because the petitioners had joined investigation did not entitle them to the grant of anticipatory bail.

I have heard learned Counsel for the parties at length.

Undoubtedly, the allegations are extremely serious while Ranjit Singh @ Sonu entered the Salon and fired from his licenced weapon upon the complainant party, in their defence they are also stated to have fired at him with his weapon as is borne out from the contents of the FIR itself. Similarly petitioner-Yuvraj Singh @ Raja was waiting outside with his weapon and fired at the complainant party. Merely because the petitioners have joined investigation and some of the weapons have been handed over would not entitle them to the grant of anticipatory bail.

The Hon'ble Supreme Court in the case of “**Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Livelaw (SC) 870**”, held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“ It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. **There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail***

application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail”.

In view of the seriousness of the allegations and to take the investigation to its logical conclusion, the custodial interrogation of the petitioner is certainly necessary. Therefore, I find no merit in both the petitions and the same are hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

February 23, 2023
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>