

CRM-M-20570 of 2023

2023:PHHC:076772

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

CRM-M-20570 of 2023

Date of decision: 25.05.2023

Bharpur Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. N.S. Sidhu, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.104 dated 26.07.2022 under Section 307 IPC and Section 25 of the Arms Act, 1959 (Section 120-B IPC added later on), registered at Police Station Nathana, Bathinda.

2. FIR has been registered on the statement of Bant Singh son of Mukhtiar Singh alleging that he is an agriculturist. He has two children. His elder son Gursewak Singh is aged 28 years and younger daughter Ramandeep Kaur is studying in Canada. Both the children are married. On 27.05.2022, after taking dinner, the family was sleeping in their respective rooms. At about 11.30 p.m. in the night, he heard a noise of crackers/fire from the room of his son Gursewak Singh. He got up and rushed to the room of his son, where he found some unknown persons having fired gun shots from the window and his daughter-in-

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law namely Manpreet Kaur, wife of Gursewak Singh raised alarm/hue and cry. The gun shot hit below the shoulder of his son. He, thereafter, arranged a vehicle and carried his son to civil hospital, Bathinda. He left his wife Chhinderpal Kaur with Gursewak Singh and returned home. Injured Gursewak Singh was referred to the higher center for advance treatment. Investigating officer recorded the statement of Gursewak Singh on 23.08.2022. He disclosed that he got married with Manpreet Kaur resident of Tohana, Haryana about four years ago. One son was born out of the marriage. On 25.07.2022 at about 11.30 p.m., the entire family slept in their respective rooms after having dinner. The left side wall of his house has fallen due to which there is a vacant space adjacent to the house. The room in which he along with his wife was sleeping did not have any door and only had a window and there is curtain. There is a cooler installed in the window. A torch light flashed in his eyes whereupon he woke up and he received a gun shot on his chest. He fell off the bed. The second shot hit below his waist on the right side. When he got up and tried to move out, he received a third gun shot fire on the right side of his lower back. He noticed two hair cut young persons running out of which one was carrying a pistol in his hand, whose name is Bharpur Singh @ Bhuri (present petitioner) son of Buta Singh and the name of other person is Komalpreet Singh @ Komal. The motive of the occurrence is that both of them are carrying on illicit relations with his wife Manpreet Kaur. He further states that his wife Manpreet Kaur along with the aforementioned two persons made an attempt to kill him.

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3. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in the present case. He further submitted that petitioner has no connection with the alleged occurrence. He further submitted that there is no evidence on record to prove any connection of the petitioner with the wife of Gursewak Singh. He further submitted that nothing is to be recovered from the petitioner and he is ready and willing to join the investigation.

4. *Per contra*, learned State counsel, while placing on record the status report, has opposed the prayer for grant of anticipatory bail to the petitioner by submitting that there is specific allegation against him that he attacked the son of the complainant and caused injuries to him. He further submitted that petitioner is a habitual offender as he is involved in two more cases of similar nature. Therefore, his custodial interrogation is necessary.

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

6. Perusal of record *prima facie* shows that petitioner along with co-accused caused a murderous attack on the son of the complainant. As per status report dated 24.05.2023 son of the complainant, namely, Gursewak Singh received a gun shot on his chest and he fell off the bed; the second shot hit below his waist on the right side and third gunshot hit on the right side of his back. The attackers were identified by Gursewak Singh as petitioner, who was carrying a pistol in his hand and his co-accused Komalpreet Singh @ Komal.

Injuries No.1 and 2 inflicted on the person of Gursewak Singh have

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been declared dangerous to life. Moreover, in the petition, petitioner is stated to be not involved in any other case. However, he is a habitual offender as he is involved in two more cases of similar nature and the non-disclosure of the same in the petition, amounts to concealment on the part of the petitioner.

7. 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.

8. In ***Bal Krishan Fauzdar v. State of Haryana 2018 (1) RCR Criminal 789***, it is held by a Co-ordinate Bench of this Court in para No. 8 as under: -

“.....It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.”

9. There are specific allegations against the petitioner that he along with his co-accused attacked the son of the complainant and

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declared dangerous to life. Therefore, he does not deserve the concession of anticipatory bail and his custodial interrogation is necessary.

10. In view of the above, present petition is dismissed.

11. Nothing observed hereinabove shall be construed as an expression of opinion on the merits of the case.

25.05.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No