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

**CRM-M-30864-2023
Date of Decision: 12.07.2023**

Khalid Petitioner
Versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Mazlish Khan, Advocate,
for the petitioner.

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 petitioners in FIR No.327, dated 03.11.2022 under Sections 148, 149, 323, 452, 506 & 307 IPC and Sections 25/54/59 of the Arms Act, registered at Police Station Nagina, District Nuh.

2. It is submitted by the learned counsel for the petitioner that the petitioner has been falsely implicated in the present case and in fact no injury has been attributed to the petitioner whereas the injury was attributed to the other co-accused, namely, Sabbir and so far as the present petitioner is concerned, he was only present on the spot and therefore, has prayed that the petitioner may be considered for the grant of anticipatory bail.

3. On the other hand, Mr. Naveen Kumar Sheoran, DAG, Haryana has stated that he has received an advance copy of the present petition and has gone through the same and has also got instructions from the concerned

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police official. He further submitted that it is a case where there are about 28 accused including the petitioner and all the accused were found in an unlawful assembly and they were also carrying arms, guns, sticks and other materials in their hands. He also submitted that the present petitioner is specifically named in the FIR and it has been specifically alleged qua the present petitioner that he along with other accused had fired directly with the intention of killing with gun. He further submitted that although two persons were injured in the present case by gunshot injury, but the gunshot injury was not pertaining to the gunshot by the present petitioner, but definitely the petitioner was a part of the unlawful assembly and the dispute was with regard to result of election of the Sarpanch of the village. He also submitted that the recovery is yet to be effected from the accused and the offence is of a high magnitude wherein the petitioner was part of the unlawful assembly as aforesaid and has stated that for the purpose of elicitation of truth and for recovery of weapons, the custodial investigation of the petitioner is required, and therefore, has prayed for dismissal of the present petition.

4. Mr. Chanderhas Yadav, Advocate has caused appearance on behalf of the complainant and has submitted that the petitioner was also part of the unlawful assembly and had also fired a shot from the gun which he was carrying. Although the shots which were received by the two injured persons, did not pertain to the gunshot of the present petitioner, but definitely, the petitioner was a part of the unlawful assembly and more than 20 persons had gathered together and attacked the complainant and his father.

5. I have heard the learned counsels for the parties.

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6. It is a case where two persons were injured due to gun shot injury. So far as the present petitioner is concerned, he was specifically named in the FIR wherein the allegations against him were that he had fired a shot directly with the intention to kill. As per the learned State counsel and learned counsel for the complainant, the petitioner was a part of the unlawful assembly and the dispute was with regard to the elections of Sarpanch wherein the results were declared and the party of the accused person was defeated. The magnitude and the gravity of the offence that the petitioner was allegedly a part of the unlawful assembly, would disentitle him for grant of anticipatory bail. The mere fact that the alleged gun shot fired by the petitioner did not hit anybody, is not a ground for grant of anticipatory bail.

7. Consequently, finding no merit in the present petition, the same is hereby dismissed.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

12.07.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |