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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 53686 of 2023
Decided on: 23.11.2023

SHIV KUMAR

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. R.S. Mamli, Advocate,
for the petitioner

Mr. Surender Singh, AAG, Haryana.

.....

SANJIV BERRY, J (ORAL)

Reply dated 28.10.2023 by learned State counsel in the form of affidavit of Deputy Superintendent of Police, Fatehabad District, Fatehabad has been placed on record, copy thereof has been supplied to the counsel opposite.

2. Heard on the bail application.
3. By way of the present petition filed under Section 438 Cr.P.C the petitioner is praying for anticipatory bail in the event of arrest in FIR (Annexure P-1) detailed as under:-

FIR No.	Dated	Sections	Police Station
0215	24.07.2023	323, 285, 34, 341, 506 IPC and 25 of the Arms Act	Bhattu Kalan, District Fatehabad.

4. It is *inter alia* contended by learned counsel for the petitioner

that the petitioner has been falsely implicated in this case. He submits that as per the allegations in the FIR the co-accused Surrender had given iron pipe blow on the complainant and the only allegations against the petitioner is that he had fired shots from a pistol in the air. He submits that the weapon has already been recovered from the co-accused Surrender and custodial interrogation of petitioner is not required, hence he prays for grant of concession of bail to the petitioner.

5. Learned State counsel on the other hand has opposed the bail by arguing that specific role has been attributed to the petitioner of having used illegal weapon to fire indiscriminately. He submits that the petitioner is involved in six other criminal cases including one case registered under Section 302 IPC. He submits that although weapon has been recovered but the origin of the said illegal weapon and from where the petitioner procured the cartridges is to be discovered for which his custodial interrogation is required.

6. After considering the rival contentions and perusing the record, it transpires that as per the FIR allegations against the petitioner are that he has fired shot from illegal pistol, although the pistol and two live cartridges have been recovered from the co-accused Surrender but the police is yet to trace its origin and also the source from where the petitioner had procured the cartridges used for indiscriminate firing, for which custodial interrogation of the petitioner is required. The antecedents of the petitioner also suggests that he is habitual of indulging in such like crimes as many as six FIR including one case is registered under Section 302 is pending against him.

7. Therefore, considering the nature and gravity of the offence, it is observed that no case is made out in favour of the petitioner for grant of anticipatory bail, as a consequent the petition is hereby dismissed.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

23.11.2023

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No