

2023:PHHC:157531

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.215

CRM-M-60305-2023
Date of decision:07.12.2023

Julfan

...Petitioner

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr.Akshit Aggarwal, Advocate for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

Ms. Prarthana Duggal, Advocate for
Mr. Namit Khurana, Advocate for the complainant.

N.S. SHEKHAWAT, J.

1. Apprehending his arrest, the petitioner has filed the present petition under Section 438 Cr.P.C. with a prayer to grant anticipatory bail to him in case FIR No.417 dated 22.08.2023 registered under Sections 148/149/307/323/427/120-B IPC and Section 25 of the Arms Act at Police Station Sadar Yamuna Nagar.

2. The FIR in the present case was got registered by Shahrukh Ali son of Adrish Ali and the same is reproduced as below:-

“...that I am a resident of the above address and I have been doing agriculture and business of property dealing. On 22.08.2023, I along-with my cousin Sadiq son of Matloob Hasan resident of village Todarpur, Amir Khan Hussain son of Galib resident of village Todarpur and Hussain son of Suleman resident of village Todarpur, in my car make 'Creta' bearing

Registration No.HR-02AN-6059 were going from Village Todarpur to Saharanpur-Ambala Highway and I was driving the car myself. At about 6:00 PM, when we reached in front of T.T. Plywood within the area of Village Todarpur, then Irshad son of Aliyas and Mosim son of Meer Hassan residents of village Todarpur got stopped my car by making a gesture. When I stopped the car and we all alighted from the car, Mosim, Irshad and their companions who were standing at a distance, came there in their cars, which included Aadil @ Vasid son of Ashiq Ali, Enam son of Adrish, Ilarun son of Kamil, Naushad son of Aliyas, Riyasat Ali son of Kamil, all residents of village Todarpur and Ashique Ali son of Yusuf, Saud son of Ikram, residents of village Shadipur who were present at some distance on their motor cycles and cars make 'Swift' in the colour white and XUV in the colour black, came near them. I could not note down the registration numbers of said motor cycles and car, but identified the XUV car to be belonging to Rahul son of Asra resident of village Daulatpur. At the same time, my cousin Rufal son of Matloob Hassan resident of village Todarpur, came at the spot in his car bearing Registration No.HR-02J-631 make 'Ritz'. In the meantime, Mosin gave a country made pistol to Irshad, who with intent to kill complainant fired a shot, which went away by touching his right hand and thereafter, he fired other two/three shots. Out of fear, I ran inside the plywood factory in front of me. Later on, I came to know that Mosim along-with his companions caused injury on the head of my brother Amir Khan with the weapons brought by them and Mosim, Irshad, Aadil Alias Vasid, Inam, Harun, Naushad, Riyasat, Aashiq, Saud and their other companions also damaged our cars very badly which were bearing Registration No.HR-02AN-6059 make Creta car and Ritz car bearing Registration No.HR- 02J-6331 with the dandas etc. Mosim, Irshad, Aadil Alias Vasid, Inam, Harun, Naushad, Riyasat, Aashiq, Saud and their other companions have imploded injuries with the intention to kill on

me and my brother Amir Khan and Hussain have inflicted injuries on us and have also damaged our cars badly. A prayer for is made to take legal action against them. I have made my written statement, have read it and listened to it and find it to be right.”

3. Learned counsel for the petitioner contends that the petitioner was not named in the FIR and has been falsely involved on the basis of the disclosure statement suffered by Rajul @ Golu, who has already been granted the concession of bail vide order dated 20.11.2023 (Annexure P-2). He further contends that in the present case, no role has been attributed to the present petitioner and even the injury, which attracted the offence punishable under Section 307 IPC is attributed to Irshad. He next contends that in the present case, complainant-Shahrukh Ali, injured, was medico legally examined in Civil Hospital, Yamuna Nagar, had suffered two injuries. One gun shot injury, which led to the addition offence under Section 307 IPC, was attributed to Irshad. Apart from that, another injured Amir Khan had also suffered five injuries and all the injuries were simple in nature. Learned counsel next submits that four persons, namely Rajul @ Golu, Tassavar, Irshad @ Riyasat and Tayab Hassan @ Tayab were arrested and have also been admitted to the concession of bail. Learned counsel further contends that no recovery is to be effected from the present petitioner and he is a first offender. He further contends that even though complainant-Shahrukh Ali, injured, had suffered two injuries and Amir Khan, injured, had suffered five injuries, still the complainant side has falsely named 22 names as accused in the present case. Thus, it is apparent that the complainant has tried to cast the net as wide as possible without any reason.

4. On the other hand, learned State counsel, assisted by the learned counsel for the complainant, have vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that the allegations levelled against the present petitioner and his co-accused are serious in nature. Even the presence of the petitioner was established during the course of investigation and therefore, the petitioner does not deserve the concession of anticipatory bail.

5. I have heard the learned counsel for the parties and perused the case file carefully.

6. In the present case, the petitioner was not named initially by the complainant side and has been involved on the basis of disclosure statement suffered by Rajul @ Golu. However, vide order (Annexure P-2), Rajul @ Golu has already been admitted to bail. Still further, no recovery is to be effected from the present petitioner and his custodial interrogation will not serve any useful purpose.

7. In view of the above-said discussion and without commenting on the merits of the case in hand, the present petition is allowed. The petitioner is granted the concession of anticipatory bail, subject to the conditions as provided under Section 438(2) Cr.P.C. It will be open for the Investigating Officer to call the petitioner to join the investigation, if so required, by issuing a written notice in this regard and he shall abide by the conditions mentioned in Section 438(2) Cr.P.C.

(N.S. SHEKHAWAT)
JUDGE

07.12.2023
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO