

106 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
 AT CHANDIGARH
 CRM-M-64820-2023
 Date of Decision:21.12.2023

Mosim

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Puneet Sharma, Advocate
 for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

Mr. Namit Khurana, Advocate
for the complainant.

N.S.Shekhawat J.

1. 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 Section 148,149,323,307,427,120-B(added later on) of IPC and 25 Arms Act (deleted afterwards), registered at Police Station, Sadar Yamuna Nagar (Annexure P-1).

2. The FIR in the present case was registered on the basis of statement made by Shahrukh Ali and the same has been reproduced below:-

“Copy of the statement of Shahrukh Ali son of Adirsh Ali, resident of village Todarpur, Police Station Sadar Yamuna Nagar, District Yamuna Nagar, aged about 27 years, mobile No. 9813214402, stated that I am a resident of the above- mentioned address have I and agriculture and business of property dealing. On 22.08.2023, I along with my cousin son Sadiq of Matloob Hasan, resident of Village Todarpur, Amir Khan Hussain son of Village Todarpur Galib, resident and Hussain Suleman, resident of Village

Todarpur, in my make car 'Creta' bearing Registration No.HR-02AN-6059, were going from Village Todarpur to Saharanpur-Ambala Highway and I was driving the car. 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, resident 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 distance and came there in their car which included Aadil @ Vasid son of Ashiq Ali, Enam son of Adrish, Harun son of Tahir, Naushad son of Aliyas, Riyasat Ali son of Tahir, all residents of village Todarpur and Ashique Ali son of Yusuf, Soud 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 the registration numbers of the 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 resident Hassan of village Todarpur, came at the spot in his car bearing Registration NO.HR-023-631 make 'Ritz'. In the meantime, Mosin gave a country made pistol to Irshad and Irshad above-mentioned with an intention to kill me, fired a gun-shot upon me, which went away by touching my wrist of right hand and thereafter he fired two/three gun-shots and due to fear, I went inside the plywood factory situated in front. Later on, I came know to 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 VasidInam, 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-023-6331 with the dandas etc. Mosim, Irshad, Aadil alias Vasid, Inam, RiyBau Harun, Naushad, Riyasat, Aashiq, Saud and

their other companions have imploded injuries with the intention to kill me and my brother Amir Khan and Hussain have inflicted illegal injuries on us and have also damaged our cars badly. Legal action be taken against all the above-mentioned accused.

3. Learned counsel for the petitioner submits that only general and vague allegations have been levelled against the present petitioner and there is no specific role attributed to the present petitioner. He further submits that the petitioner had earlier filed a petition before this Court i.e CRM-M-48062-2023, with the same relief, however, the same was ordered to be withdrawn vide order dated 02.11.2023. Now, final report under Section 173 Cr.P.C has been submitted in the Court qua the other accused and the petitioner is also entitled for grant of concession of anticipatory bail by this Court.

4. On the other hand learned State counsel has vehemently opposed the prayer made by the present petitioner on the ground that the first anticipatory bail petition i.e. CRM-M-48062-2023 (Annexure P-15) was heard by this Court at length and when this Court had not granted the concession of bail to the petitioner, learned counsel appearing on behalf of petitioner had withdrawn the said petition. Since there was no change of circumstances, the present petition is not maintainable before this Court.

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

6. It is apparent from the record that the petitioner had filed a petition for grant of anticipatory bail by raising similar arguments, before this Court. However, the said matter was heard at length by this Court and ultimately, when this Court was not inclined the relief to the petitioner, learned counsel for the petitioner had withdrawn the present petition on 02.11.2023, now after a

lapse of about one and half month, the petitioner has again filed the petition before this Court on the same cause of action. In fact, the presentation of the challan by the police qua other co-accused can never be taken to be a change of circumstances, for entertaining the second petition for the grant of anticipatory bail. There are the serious allegations against the present petitioner and his bail application was rightly declined by this Court.

7. Thus, findings no merits, the present petition is ordered to be dismissed.

21.12.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No