

2024:PHHC:139011



105 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-52955-2024
DECIDED ON: 23.10.2024

SAHIL

PETITIONER

VERSUS

STATE OF HARYANA

RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sourabh Sheoran, Advocate,
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 of BNSS, 2023 has been invoked seeking anticipatory bail to the petitioner in case FIR No. 229, dated 24.07.2024, under Sections 190, 191 (2), 287, 351(2) of BNS, 2023 and Section 25 of Arms Act, 1959, registered at Police Station Dadri Sadar, District Charkhi Dadri.

2. Facts

The facts as narrated in the FIR reads as under:-

To, SHO PS Dadri Sadar. Sir, it is submitted that I Maina wife of Mintu is a resident of village Manakawas. Today on 24.07.2024 at around 05:00 PM I was feeding my cattie, 9 Boys on 3 Motorcycles came into our Street from Charkhi Village side and asked me about the house of the Gautam and by coming in front of Billu son of Dayaram one of the boy who had a pistol in his fired with the pistol in the air and went towards the

mountain side on their motorcycles and while leaving he threatened to kill Gautam. Legal action be taken against them. Sd/-Meena Devi Mob no. 7206664943. Police proceeding : Today I HC alongwith HC Mukesh were present at Polie Station, then I received a telephone call from MHC PS and informed me that Maina Wife of Mintu informed that a bullet shot has been fired at the village. Please reach at the spot for investigation. On receiving this information, I HC along with HC mukesh 273 reached at the Village Manakawas where Maina wife of Mintu informed us and presented a written complaint to me and from the contents of the application an offence under section 287 / 190/351(2) , 191(2) BNS and section 25 of Arms Act was found to be made out and the written complaint was sent through HC Mukesh 273 to the PS for registration of the case and after the registration of the case, case number be informed accordingly. I HC is busy at the place of occurrence. At Manakawas Sd/- Sunil HC PS Sadar Dadri Dated 24.07.2024 at 08:10 PM. AT PS: After receiving the written complaint through HC Mukesh 273 at PS, Case no. 229 dated 24.07.2024 u/s 287 / 190/351(2) , 191(2) BNS and section 25 of Arms Act was registered at PS Sadar Dadri and the copy of the complaint and the original complaint are being sent through HC to the investigating officer. Computer generated copies of the FIR are being prepared and being sent into the service of the senior officials. This Case has been registered in the presence of SHO/INSP Omprakash.

3. Contentions

On behalf of the petitioner:

Learned counsel for the petitioner would contend that as per the allegations in the FIR, the petitioner was the member of the unlawful

assembly and except that no overt act has been attributed to him. He further contends that the gun shot alleged to have been fired in the Air by the co-accused Nikhil, who is in custody whereas, the alleged weapon has also been recovered from the possession of one Himanshu.

Notice of motion.

On behalf of respondent-State

Mr. Baljinder Singh Virk, Sr. DAG, Haryana having been served with an advance copy, accepts the notice on behalf of respondent-State. He could not controvert the afore-said fact and also not able to make out a case of custodial interrogation.

4. Analysis

Be that as it may, considering the facts that the alleged gun shot has been fired by the co-accused Nikhil, who is already in custody; the recovery of weapon already stands effected from the co-accused-Himanshu and nothing is to be recovered from the petitioner, this Court is of the view that petitioner's custodial interrogation is not required.

5. Conclusion:

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to him joining the investigation and reporting to the Investigating Officer concerned within a period of 10 days from today, upon furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer.

The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

“When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions

in such directions in the light of the facts of the particular case, as it may think fit, including-

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section."*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within 10 days, the order passed by this Court today shall automatically, stand cancelled.

In the afore-said terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

23.10.2024
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- 1. Whether speaking/ reasoned : Yes / No
- 2. Whether reportable : Yes / No