

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-65548-2024 (O&M)

Date of Decision: 08.01.2025

Karan Kumar

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Harmanpreet Singh, Advocate for the petitioner

Mr. Jaspal Singh Guru, AAG Punjab

Sandeep Moudgil, J.

(1). The jurisdiction of this Court has been invoked under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of anticipatory bail to the petitioner in FIR No.115 dated 24.07.2024 under Sections 128(2)/109/3(5)/351(2) of Bharatiya Nyaya Sanhita, 2023 and under Section 25 of Arms Act, registered at Police Station Division B, District Police Commissionerate, Amritsar.

Facts

(2). Facts as emerging in the FIR is reproduced as under:-

“Statement of Preet S/o Arun Kumar R/o Gali no. 3, Shakti Nagar, Chamrang Road, Amritsar age about 22 years mobile no. 8847317349 stated that I am resident of above address and is a labourer. That on 23.07.2024 at about 7:AM I was passing through my street outside my house. That while I was passing through the house of Raj Kumari Pardhan then her grandson Vishal @ Tida, Pawan Kumar @ Gattu S/o Amit Kumar and Abhi S/o Lucky R/o Gali no. 3, Ekta Nagar, Chamrang Road stopped me outside their house and all three of them started manhandling with me and Vasu S/o Harish Gill R/o our colony H. No. K-21/947 Gali no. 3 Ekta Nagar Chamrang Road, Amritsar and his mother saved me from them and we went to our

homes. After that at 9:00 PM, I and Vasu were present at Ekta Nagar near Slums outside mandir then suddenly Karan Kumar having pistol, Vishal @ Tida having pistol, Pawan Kumar having datar S/o Amit Kumar R/o Ekta Nagar, Chamrang Road, Amritsar and their cousin brother Abhi S/o Lucky having datar came there. Karan kumar raised lalkara and told to get hold of us and also said that we shall not be left today. Pawan Kumar gave blow of datar on my head due to which my head got injured and I fell down. That Vasu tried to save me and then Vishal hit in his head with the butt of his pistol and then Karan and Abhi gave blows with their legs on our chest and face and also gave leg blows on my back. That I and Vasu ran from there to save our lives to which karan kumar and his brother vishal @tida fired shots from their pistols and one fire hit on the back of my friend vasu and one bullet passed nearby my ear. Vasu fell down. I raised alarm of maar dita maar dita and then all of them ran from there along with their weapons. That Vicky kumar s/o Amarjit Singh R/o gali no. 3 Ekta Nagar Chamrang Road Amritsar, chacha of vasu came on the spot who after arranging the vehicle took us to civil hospital Amritsar where doctor gave us first aid and further refered us. Our relatives took us to Guru nanak dev hospital Amritsar where both of us are under medical treatment. That we are having old friend rivalry with Karan Kumar due to which Karan Kumar and his brother are against us. That Karan Kmar, Vishal @ Tidda, Pawan Kumar and Abhi have injured me and Vasu and after that Karan Kumar and Vishal @ Tida have fired on us with intention to kill us and one fire has hit on the back of Vasu. I am responsible. Appropriate Legal action be taken against them. Statement have been heard and found to be true. SD/- Preet above verified by Amarjit Singh ASI P.S. B Division Amritsar. Date 24.07.2024.”

Petitioner's submission

(3). Learned Counsel for the petitioner argues that the petitioner is innocent and has been wrongly implicated in the case as the FIR was delayed by 24 hours besides, the antecedents of the complainant himself is tainted with history of criminal behavior, having multiple cases registered against him and

his family members. He submits that the present FIR is nothing but a retaliatory measure in connivance with the investigating officer Amarjit Singh and in fact the complainant and his accomplices had inflicted severe injuries upon the cousin brother of the petitioner, namely, Gagan and when the petitioner came to be informed of this strife, he came at the spot along with Amarjit Singh, who facilitated the accused persons to run away from the spot and this whole incident has been captured on mobile phone appended as Annexure A.

(4). It is further averred that the Gagan, cousin of the petitioner, was inflicted grave injuries by the complainant party due to which he was admitted in the Guru Nanak Dev Hospital, Amritsar, the CCTV video of the said Hospital has been ordered to be preserved and obtained by the petitioner along with call details and tower location under the orders of the trial court dated 01.08.2024 (Annexures P4 & P5). He submits that no recovery is required to be effected from the petitioner, and no specific role has been assigned to him. The petitioner is willing to cooperate with the investigation and abide by bail conditions if granted anticipatory bail.

(5). Notice of motion. Mr. Jaspal Singh Guru, AAG Punjab accepts notice on behalf of the respondent.

Stand of the State/complainant

(6). Learned State counsel avers that the allegations levelled against the petitioner are serious in nature as during preliminary investigation, it has come that the petitioner was armed with deadly weapon pistol alongwith other co-accused and had attacked the complainant and his friend Wasu on the date of occurrence and caused serious injuries with the intention to kill them. He

submits that the custodial interrogation of the petitioner is required at this stage to unearth the material facts and how he got the possession of the pistol.

(7). Heard counsel for the respective parties at length.

Analysis

(8). A perusal of the contents of the FIR and the story narrated by the petitioner, it appears that on 23.07.2024 in the evening when complainant Preet was passing by the house of Raj Kumari – co-accused, Vishal @ Tidda, Pawan Kumar @ Gahttu and Abhi stopped him and on the intervention of Vasu and his mother, their tussle was stopped, however, on the same day in the night at 9.00 pm, complainant Preet and his friend Vasu were present outside the Mandir near Jhugia (slums) when the petitioner Karan Kumar, Vishal (armed with pistols), Pawan and Abhi (armed with datar) came there and petitioner raised lalkara and Pawan gave datar blow on the head of the complainant and when Vasu intervened, Vishal gave him pistol butt blow on his head whereas the petitioner and Abhi are alleged to have given kicks to the complainant. Besides that, the petitioner and Vishal fired two gun shots from their respective pistols of which one hit at the back and another gunshot passed by the ear of Vasu and thereafter all of the accused persons ran away from the spot.

(9). There is a specific attribution against the petitioner that he gave kicks to the already injured complainant. The criminal bent of mind and ruthlessness of the petitioner can be seen from the fact that he did not even spare the person-Vasu who was nowhere in the fight between Preet and Karan. However, nothing prevented him from firing pistol blow on the back of the person who intervened and avoided the fight.

(10). The reliance placed on the CCTV footage/videos appended with the petition cannot be gone into by this Court inasmuch as it is the statutory requirement for electronic evidences like CCTV footage to meet with specific criteria to be admissible in court, including authenticity verification and consideration of such evidence complicates its use during adjudication of anticipatory bail, where courts typically avoid delving into detailed evidentiary assessments, for, such actions could directly impact the trial's integrity.

(11). In view of the above discussion, this Court does not find any ground to grant the concession of anticipatory bail to the petitioner.

(12). Dismissed.

27.09.2024
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No