



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-7200-2025
DECIDED ON: 07.02.2025**

RAHUL **.....PETITIONER**
VERSUS

STATE OF HARYANA **.....RESPONDENT**

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Narinder S. Lucky, Advocate,
for the petitioner.

SANJAY VASHISTH, J (ORAL)

1. Prayer in this petition, filed under Section 482 of the BNSS, 2023 (earlier Section 438 Cr.P.C.), is for grant of anticipatory bail to the petitioner, who has been booked in a criminal case arising out of First Information Report, as detailed hereunder:-

Name & age of Petitioner (s)	FIR No.	Date	Section(s)	Police Station	District
Rahul, aged about 25 years	356	09.10.2024	25 and 27 of the Arms Act, 1959, and 109(1), 3(5) BNS (Sections 111, 61(2), 238 of BNS added later on)	Bhuna	Fatehabad

2. Learned counsel for the petitioner, *inter alia*, contends that in regard to the incident dated 09.10.2024, which happened at about 2.30 P.M., complainant namely Raj Kumar @ Raja got recorded his version on 09.10.2024 itself, that when he was present at Bus Stand Jandli Kalan, GT Road, along with Sushil Kumar and Joginder @ Jagga from the side of Fatehabad, 4 youngsters having weapons in their hands alighted from their car 'Honda City; and fired towards them. One of the bullet hit

near the front tyre of the Scorpio Vehicle and in order to save themselves, they ran towards the field by taking cover of the vehicle.

It has also been explained in the FIR that on retaliation, two rounds were fired by the complainant Raj Kumar @ Raja also, from his licensed pistol, and those four assailants fired total 6-7 rounds in order to kill the complainant.

3. Counsel for the petitioner further submits that in the FIR, name of none of the assailants has been mentioned. It is after 21 days, that a supplementary statement of the complainant is recorded, wherein name of the four assailants namely (1) Bittu @ Kannu, (2) Sushil @ Shilu (3) Sunny and (4) Ajay, were surfaced.

After recording the said supplementary statement, at the first instance, accused Bittu @ Kannu and Ajay were arrested, who did not name the petitioner, and subsequent thereto, one Sushil @ Shilu was also arrested, and it is in his disclosure statement that the name of the petitioner has been mentioned, with the allegation of seeking information about the location of the complainant party.

4. Thus, counsel for the petitioner submits that involvement of the petitioner is completely based upon the disclosure statement of the co-accused, which is not an admissible evidence, and prosecution cannot rely upon the solitary statement for seeking conviction of the petitioner. Thus, allegations are completely false in nature, and petitioner deserves the concession of anticipatory bail.

5. Notice of motion.

6. On advance notice, Mr. Kanwar Sanjiv Kumar, AAG, Haryana, puts in appearance on behalf of the respondent – State, and submits that the petitioner is involved in one more case, registered under the Arms Act, and recovery of the amount of Rs.15,000/- which he had taken from the main accused and the mobile phone which has been used by him, has been affected.

However, learned State counsel does not dispute any of the factual contention addressed by counsel for the petitioner before this Court.

7. In view of the circumstances explained by counsel for both the parties, this Court does not find any substantial reason to keep the present petition pending, as the same can be disposed of at this stage, also.

Since, name of none of the accused is mentioned in the FIR and the name of the petitioner was not even mentioned by the complainant, in the supplementary statement which was recorded after 21 days, the burden of proving the involvement of the petitioner would be heavily upon the prosecution.

8. Even the name of the petitioner was not disclosed by the co-accused Bittu and Ajay, who were arrested at the first instance, therefore, divulging the name of the petitioner only by an accused namely Sushil @ Shilu cannot be termed as a solitary evidence, upon which the prosecution can rely upon, unless his involvement is confirmed from the other corroborative/link evidence.

As far as registration of the other case against the petitioner in the Arms Act is concerned, admittedly, the same is pending for its decision before the Court. Thus, prosecution cannot seek any advantage at this stage, on that account.

9. Therefore, present petition is allowed. Petitioner is directed to join the investigation, within a period of one week from today, and on his joining, he would be released on bail, subject to his furnishing bail bonds to the satisfaction of the Arresting Officer. The petitioner shall also be abide by all the conditions laid down under Section 482(2) of BNSS, 2023 (earlier Section 438(2) Cr.P.C.).

10. Besides, the petitioner would submit/surrender his passport before the Arresting Officer and an undertaking on oath that in case of leaving the Country, he would seek prior permission from the Investigating Agency/concerned Court.

11. However, it is made clear that in case, petitioner does not join the investigation, within the specified period, it will be open for the prosecution to seek the cancellation of bail granted to the petitioner by this Court.

It is also made clear that in case, Investigating Officer himself wants to get the petitioner join the investigation, he will inform the petitioner in writing, in advance.

07.02.2025

Lavisha

**(SANJAY VASHISTH)
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*