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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-M-8151-2024 (O&M)
Decided on : 29.01.2025**

HARSH MAHAJAN

. . . Petitioner

Versus

STATE OF PUNJAB

. . . Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. APS Deol, Advocate
for the petitioner.

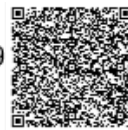
Mr. R.S.Thind, DAG Punjab.

Mr. Amit Arora, Advocate for complainant.

KIRTI SINGH, J. (Oral)

1. Apprehending arrest in FIR No.141 dated 25.10.2023, under Sections 307 and 34 of IPC and Sections 25/27/54/59 of Arms Act, registered at Police Station Division No.2, District Pathankot, the petitioner has preferred this petition under Section 438 of Cr.P.C. for grant of anticipatory bail.

2. Succinct factual narrative relevant for the disposal of this case are that afore-stated FIR was registered on a complaint moved by Rajinder Singh alleging that on 24.10.2023, Rajinder Singh and his friend Ravinder Singh attended Dussehra festival at Salli Road, Pathankot, and were sitting at a shop owned by one Sandeep Singh. Ravinder Singh went to a vacant plot to urinate, where he had a heated argument with the petitioner and his brother co-accused- Sudhir Mahajan @ Montu, and shortly after, they, along with two unidentified individuals confronted



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Ravinder Singh at the shop, but due to intervention of complainant, they left. Later at 08:30 PM, when the complainant and Ravinder Singh went to retrieve their car near the Transport Office, the petitioner and his associates confronted them again and petitioner raised lalkara that they should not be spared for urinating in front of females and fired two shots from a .32 bore pistol, hitting Ravinder Singh on his right thigh and left abdomen. Co-accused Sudhir Mahajan then took the pistol and fired two shots towards complainant and one bullet hit on the chest of the complainant while other missed.

3. Learned counsel for the petitioner contends that it is a case of version and cross version. The petitioner himself sustained three injuries, one of which is grievous, which was inflicted by Ravinder Singh with a *Datar*, attracting an offence under Section 326 IPC. On date of occurrence, the petitioner and his family were watching the festival of Dussehra from his office rooftop when Ravinder Singh (injured in the FIR) began urinating in a vacant plot opposite the petitioner's shop, and at that time several women were also present. When the petitioner's wife objected, a verbal altercation ensued and at 8:30 PM, Ravinder Singh and others arrived in cars and assaulted the petitioner, causing three injuries, one of which was declared grievous in nature.

4. *Per contra*, learned State counsel has opposed the submissions made by counsel for the petitioner. He while relying on status report dated 11.01.2025 submits that the petitioner has been specifically named in the FIR by the complainant-Rajinder Singh. The petitioner is attributed with a clear role in the incident, having raised a *lalkara* that the complainant party should not be spared for urinating in front of females and for firing two gun shots from his .32 bore pistol, one striking Ravinder Singh's right thigh and the other hitting the left side



of his abdomen. The complainant's version is corroborated by medical evidence, as the MLR of Ravinder Singh confirms two gunshot injuries. Considering the seriousness of the offence, wherein the petitioner is alleged to have fired two gunshots, causing grievous injuries, he is not entitled to the concession of anticipatory bail.

5. Heard the rival submissions made by learned counsel for the parties and perused the record.

6. In ***Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)***, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr. 2010 (1) SCC 679*).*

*Further, it was clearly observed in para No.24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may*



hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

7. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

8. In ***Siddharam Satlingappa Mhetra v. State of Maharashtra & Ors. reported in (2011) 1 SCC 694*** rendered in the context of the discretion to grant Anticipatory Bail under Section 438, Hon’ble Supreme Court advocated the need to balance individual personal liberty with societal interest and observed:-

“84. Just as liberty is precious to an individual, so is the society’s interest in maintenance of peace, law and order. Both are equally important.”

9. There are serious allegations against the petitioner. The petitioner has been named in the FIR. Medical evidence corroborates the prosecution’s case, confirming that the victim party suffered three gunshot wounds, out of which two are attributed to the petitioner. Accordingly, to unearth the true dimensions of the alleged crime, this Court does not deem it appropriate to interfere in the matter so



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as to grant the concession of anticipatory bail to the petitioner at this stage.

10. The petition is dismissed.
11. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
12. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

29.01.2025

Kavita

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No