

In the Court of Sandeep Singh Bajwa, Addl. Sessions Judge, Amritsar.

B.A. no. 2129/23.4.2019

CNR No.PBAS010117842018

Date of Institution : 23.4.2019

Date of order : 2.5.2019

S T A T E

Versus.

Sukhjinder Singh aged about 37 years son of Dalbir Singh, resident of House No.687, Dream City, Manawala, Tehsil and District Amritsar.

FIR no. 203 dated 13.11.2018

U/ss 307/34 of IPC, 25/27/54/59 of Arms Act.

Police Station : Chattiwind, Amritsar.

First application for bail u/s 438 Cr.P.C.

Present : Mr. Amandeep Singh Bajwa, Advocate, counsel for the applicant/accused.
Mrs Rittu Kumar,, Additional PP for the State.

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O R D E R

1. This order will dispose off an application u/s 438 of Cr.P.C, for grant of anticipatory bail filed by the accused/applicant Sukhjinder Singh in case FIR No. 203 dated 13.11.2018 U/s 307/34 of IPC and 25/27/54/59 of
UID No. PB0446.

Arms Act P.S. Chattiwind, Amritsar.

2. Concise facts, necessary for the disposal of the instant bail application are the present case was got registered at the instance of complainant Harinder Singh on the allegations that on 8.11.2018, he along with his friend Inderjit Singh and Manpreet Singh had gone to Noida to meet there friend Karanbir Singh on Fortuner and while coming back when they reached near DPS Manawala at 9.15 pm, then one fortuner car no. PB-46M-0067 crossed their car gave a swerve turn but they saved their car and said car was driven by Sukhjinder Singh who is known to him as respectables got the compromise effected between Inderjit Singh and Sukhjinder Singh. He has further alleged Sukhjinder Singh after reaching Dream City brought the car in front of their car and started abusing them and when they got out of car to ask about the reason for his act, then Sukhjinder Singh drove his car inside Dream City and again abused them after coming out of the car and outside the dream city one Innova no. PB-02CQ8500 was already parked and lights on the gate were also on and thereafter, Sukhjinder Singh gave fire shots from his pistol on them with an intent to kill and in the meantime Tejinder Singh and one unknown person also got out of the Innova and Tejinder Singh also fired two shots at them from his pistol. He has further alleged that due to

firing by Harjinder Singh, one of the shots hit his left thigh due to which blood started oozing out and he fell on the ground and Inderjit and Manpreet took him to Amandeep hospital. The motive of attack is that despite the compromise with Inderjit Singh, Sukhjinder Singh kept the same in his mind. Thereafter, the present FIR was registered.

3. Notice of bail application was given to state and record was also summoned.
4. It is contended by Ld. Counsel for the applicant/accused that in fact the true facts are that the applicant on 11.11.2018 at about 9.00/10.00 p.m, after harvesting his fields was going from his village Meharban Pura to his residential colony on a Car bearing No.PB46-M-0067 and after passing Mannawala Tol-Plaza, two vehicles i.e one Fortune and other Innova Car followed him and about 5-6 persons were riding in the said two vehicles and they started hitting his car and started firing indiscriminately at him with intent to kill and he drove his car in the Dream city and he identified Manpreet Singh, Harinder Singh, Inderjit Singh because Harinder Singh was driving a Fortuner and Inderjit Singh was sitting next to him and Manpreet Singh was sitting in the rear seat and in the second vehicle i.e Innova Car, 2-3 unknown persons were sitting. After entering colony, he went towards his house and he started receiving calls from unknown numbers i.e 9120000067

and 8146061624 and when he attended the calls, Inderjit Singh started abusing him and also threatened to kill his family. He got scared and went towards main gate, and requested two security guards were present and he told them cars should not be allowed to enter and he also called no. 100 to police and when he was standing near the room of security guards, Harinder Singh and Inderjit Singh fired at him and in order to save security guards, he fired in air and in the meantime, Harinder Singh got shot from his own pistol and police came after half an hour and recorded their statements and also checked his fortuner which had marks of gun shots and entire incident had been recorded in the CCTV footage. The motive behind the occurrence is that Inderjit Singh, who was his close friend, demanded Rs.ten lakhs from him and he gave the same and he allowed Inderjit Singh to live in his house at Darshan Avenue but Inderjit Singh started doing wrong things in the house as such he told Inderjit Singh to vacate the house and Inderjit Singh while leaving removed all the costly fittings and when he called Inderjit, he abused him and thereafter, Inderjit Singh did not had good terms with him. Thereafter, Inderjit started making plans to extort money from him and this case is also false one. He further argued that in the inquiry, applicant was given clean chit as false case has been registered against him and applicant

has moved various applications to many police officers and has also filed complaint against complainant and his associated which is pending in the court of Ms. Prabhjot Kaur, Ld. JMIC Amritsar. He further argued that applicant is ready to join investigation and thereafter, he has prayed for allowing the bail application.

5. Ld. Addl.PP for the state on the other hand has argued that entire story put forth by the applicant is false and infact he had given fire shot to the injured Harinder Singh. She has further argued that the accused has committed heinous crime and therefore, he does not deserve the concession of anticipation bail. His custodial interrogation is required for recovery of weapon. Thereafter, she prayed for dismissal of bail application.

6. I have heard the rival contentions and have perused the record.

7. As per prosecution version, complainant Harinder Singh on 8.11.2018, along with his friend Inderjit Singh and Manpreet Singh was coming back from Noida after meeting their friend Karanbir Singh on Fortuner and while coming back when they reached near DPS Manawala at 9.15 pm, then one Fortuner car no. PB-46M-0067 crossed their car and gave a swerve turn but they saved there car and said car was driven by Sukhjinder Singh who is known to him as respectables got the compromise effected between Inderjit

Singh and Sukhjinder Singh. It is also alleged that Sukhjinder Singh after reaching Dream City brought the car in front of their car and started abusing them and when they got out of car to ask about the reason for his act, then Sukhjinder Singh drove his car inside Dream City and again abused them after coming out of the car and outside the dream city one Innova no. PB-02CQ8500 was already parked and lights on the gate were also on and thereafter, Sukhjinder Singh gave fire shots from his pistol on them with intent to kill and in the meantime Tejinder Singh and one unknown person also got out of the Innova and Tejinder Singh also fired two shots at them from his pistol. It is also alleged that due to firing by Harjinder Singh, one of the shots hit his left thigh due to which blood started oozing out and he fell on the ground and Inderjit and Manpreet took him to Amandeep hospital. Perusal of the record reveal that complainant was treated at Amandeep Hospital for gun shot wound and police has also taken into possession the said bullet.

8. It is contended by Ld. Addl.PP for the state that custodial interrogation of the applicant/accused is essential for recovery of weapon and for ascertaining the names of other persons involved. In the facts of the case, this court fully concurs with the arguments of Ld. Addl.PP for the state.

9. Ld. Counsel for the applicant/accused has while detailing his version argued that the complaint is pending in the court, however, the said argument is meritless at this stage as even during his interrogation, he can put forth his version and after investigation, the investigating agency can come to proper conclusion with regard to his version. Ld. Counsel has relied upon hereunder discussed citations which are not applicable o the facts of the case in hand:

- i) **2011 (2) RCR (CRIMINAL) 319 P&H:** This citation is not applicable to the facts of the case as in the case in citation IO had discovered that there was only fire arm injury whereas allegations were that accused armed with gandasis caused injuries whereas in the case in hand the allegations are of gun shot wound only which is corroborated by medical evidence.
- ii) **2014 (4)Law Herald 3376 P&H:** Even this citation is not applicable to the facts of the case in citation medical board had opined that alleged injury was not possible with firearm whereas in the present case there is no such opinion.
- iii) **2014 (1) LAW HERALD 869 P&H:** Even this citation is not applicable to the facts of the case in hand as in the case in citation, the offence under section 307 IPC had been deleted and it was added later on and accused had joined investigation whereas it is not so in the present case.

- iv) **2014 (14) RCR (CRIMINAL) 675 P&H:** Even this citation is not applicable to the the facts of the case as in the case in citation sustained injuries attracting section 307 IPC was not caused by petitioner and no specific injury was attributed to the petitioner as such the bail was allowed whereas in the case in hand specific injury has been attributed to the applicant/accused.
- v) **2018 (1) Law Herald 308 P&H:** Even this citation is not applicable to the the facts of the case as in the case in citation petitioners had caused head injuries and the victim was hospitalized and co-accused was granted bail for newly added offence u/s 307 of IPC and it was held that since the accused had joined the investigation and no recovery was required to be made, as such the bail was allowed whereas in the present case, recovery is yet to be effected and offence has not been added later on and even the applicant had not earlier joined investigation as such the facts of the case are distinguishable from the facts of the case in hand.
- vi) **2016 (3) Law Herald 2155 P&H:** Even this citation is not applicable to the the facts of the case as in the case in citation injuries were given with blunt weapon and further the accused had already joined investigation and no recovery was to be effected whereas in the present case, recovery is yet to be

effected.

vii) **2014 (2) Cri.CC 794 P&H:** Even this citation is not applicable to the facts of the case as in the case in citation petitioner was granted bail and offence u/s 307 IPC was added later on and accused had been arrested and released on bail and no recovery was to be effected as such his bail was allowed whereas in the case in hand neither the accused had been arrested nor the recovery of weapon has been made.

vii) **2018 (1) AIR Kar R 691 Karnataka High Court:** Even this citation is not applicable to the the facts of the case as in the case in citation the petitioners caused injuries to husband of complainant on the head with chopper and assaulted complainant and her son also and in the facts of the case bail was allowed, however, in the present case, there are allegations of direct firing of shots by accused towards complainant and other person due to which one of the shots hit the left thigh of the complainant and same is corroborated with medical evidence and further in the facts of the case, allegations against the applicant/accused are serious in nature and recovery of weapon is to be made as such the facts of the case in citation are different from the facts of the case in hand.

viii) **2012 (1) Cri.CC 386 Chhatisgarh High Court:** Even this citation is not

applicable to the facts of the case as in the case in citation the bail was allowed on the score that there was attempt of strangulation and only one injury was found on one side of neck and it was held that ordinarily when attempt to strangle is made by both hands injuries would be found on either sides of neck as such it cannot be conclusively determined at this stage as to whether at the end of trial offence under section 307 of IPC will be made out, however, in the case in hand, the injury is of gun shot which is corroborated with medical evidence and custodial interrogation was necessary for recovery of weapon and for ascertaining the names of other persons, as such the facts of case in citation are distinguishable from the facts of the case in hand.

10. Hence, taking into the account the facts and circumstances of the present case and without expressing any opinion on the merits of the case and in view of gravity and seriousness of the offence, the instant bail application deserves rejection and is hereby rejected. Police record be returned forthwith and file be consigned to the record room.

Pronounced in open court.

Dated:- 2nd of May 2019.

**(Sandeep Singh Bajwa),
Judge Special Court,
Amritsar.**

Manoj Kumar,
Stenographer Grade-I.