

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

CRM-M-16205-2020 (O&M)

Date of decision: 17.07.2020

Vishal

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Ashit Malik, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

Mr. Saurabh Kapoor, Advocate for respondent No.2.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for regular bail has been filed by petitioner Vishal, an accused in FIR No.637 dated 12.08.2019, for offences under Sections 148, 149, 307, 323, 324, 341 and 506 of IPC, registered with Police Station Panipat City, District Panipat.

Briefly stated facts of the case as per prosecution story are that criminal machinery in this case was set into motion by complainant Mukesh Kumar son of Nagad Singh, who in the written complaint submitted by him to the police stated that his son Kuldeep, aged about 20 years is a student of BA Final year in I.B. College; on 10.08.2019, Kuldeep had gone to college, at about 1.00 PM, he received a telephonic call from Kuldeep that 5/6 boys had caused injuries to him with knives

and he was lying under the bridge beside SD College drenched in blood. According to the complainant, on coming to know about such situation, he along with his brother Satbir rushed to the disclosed place and found that a huge crowd had gathered there. Kuldeep was lying on the ground and blood was oozing out of his injuries. Complainant accordingly took the injured to hospital; the injured told the complainant that a week earlier, while he was going to his college in a bus, then he had an altercation with some boys, of which he recognized Vishal Goswami and Himanshu; the passengers sitting in the bus had intervened; while going away Vishal had threatened Kuldeep that he should be prepared for retaliation and on that day, while Kuldeep was going to SD College for migration from IB College and was under the bridge on GT Road, when he had reached in front of SD College, then Himanshu along with Anurag along with companions blocked his way and caught hold of him; Vishal Goswami and Aman Ror attacked him, causing injuries to him with knives, which they were holding in their hands. Himanshu, Anurag and their two friends gave him kick and fist blows. Thereafter, on arrival of several persons on hearing alarm raised by the injured, the assailants ran away along with their respective weapons, giving threats to Kuldeep. Kuldeep injured was admitted in Park Hospital. He was medically treated and medico-legally examined. The injury in the abdomen suffered by him was declared to be dangerous to life. The petitioner was arrested in this case.

Petitioner/accused had moved a petition for regular bail before Court of Sessions at Panipat, however, his said petition was

dismissed by Addl. Sessions Judge, Panipat, vide order dated 13.05.2020. Thereafter, he had approached this Court seeking regular bail, however, that petition bearing No. CRM-M-1461-2020 was withdrawn by learned counsel for the petitioner on 13.03.2020. Now, the petitioner has approached this Court again seeking regular bail, which request is being opposed by learned State counsel.

I have heard learned counsel for the petitioner, learned counsel for the complainant as well as learned State counsel besides going through the record.

Learned counsel for the petitioner has argued that there is a delay of 02 days in lodging of FIR; the knife allegedly recovered from the petitioner is a small kitchen knife showing that assailants had no intention to kill the victim; the petitioner is a young boy of 20 years and student of B.Sc first year at the time of occurrence; the complainant Mukesh Kumar and his son Kuldeep injured have sworn affidavits to the effect that the petitioner had not caused any injury to Kuldeep and they have entered into a compromise deed dated 12.06.2020, in which they have stated that the petitioner was named in the FIR on suspicion, therefore, the petitioner be granted the concession of bail.

Learned counsel representing the complainant/respondent No.2 has stated that he does not oppose the request for bail, in view of compromise having been entered into between the petitioner and the complainant side.

Whereas, learned State counsel has vehemently argued that since the petitioner has committed a heinous crime, he does not deserve

the concession of regular bail.

After hearing the rival contentions and going through the record, I find that the petition does not call for acceptance. As far as the contentions raised by learned counsel for the petitioner, first being that there has been delay of 02 days in lodging of FIR; such contention does not cut much ice while considering the case of the petitioner for grant of bail, though, it may be having some relevance while determining the guilt of the accused during trial. Yardstick applied for grant of bail is quite different from the factors which are to be taken into consideration to determine the guilt of the accused during the trial. As far as the other contention raised by learned counsel for the petitioner that the knives allegedly recovered from the accused are small kitchen knives, showing that the assailants had no intention to kill; again I am not impressed by this contention. Knife is a sharp edged instrument used for the purpose of cutting. Even a small knife can prove to be dangerous if used for hitting vital part of the body. Kitchen knives can prove to be deadly if used for stabbing and targeting a vital part of human body. Kitchen knives are meant for use in the kitchen and not to be carried by the students while going to the educational institutions in connection with their studies.

As far as the matter having been compromised between the parties and the complainant and injured having furnished affidavits that the petitioner was not involved in the incident as well as the compromise deed in that regard being placed on file, that rather damages the case of the petitioner. Offence under Section 307 IPC is of very serious type, which has been made non-compoundable by the Legislature. This offence

is not only against a particular individual but against the society at large. If such type of stabbing incidents are taken lightly, that would rather encourage the criminals to tread the path of crime, resulting in a rise in crime graph. The very fact that complainant and the injured are said to have entered into compromise with the petitioner and furnished affidavit in that regard giving clean chit to the petitioner itself shows that the petitioner while being behind bars has been successful in tampering with the prosecution evidence by giving either inducement or threat to the prosecution witnesses. As such putting seal of approval on such type of compromise by the Court in a case of heinous crime is neither desirable nor called for. A criminal indulging in grave and serious acts of crime would then be able to walk free using muscle and financial power.

As regards the submission by learned counsel for the petitioner that the petitioner is of young age and a college student, as such he should be granted bail, but at the same time, it has to be kept in mind, he is stated to be the main culprit in the incident and as per prosecution story, he had stabbed the injured in abdomen with a knife and such injury has been declared to be dangerous to life. The Court has to take a balanced view in the matter considering all the facts and circumstances, unwanted sympathy for a criminal and apathy for a victim are uncalled for. The petitioner a young man and student was expected to go to college for the purpose of learning so as to be successful in future life and not to take path of crime by quarreling with fellow students and stabbing one of students over a trifle. Thus, I find that since the allegations against the petitioner are quite grave and serious and

the injury which has been declared to be dangerous to life has been attributed to him, there is possibility of his absconding and trying to tamper with the prosecution evidence. Further, if granted the concession of bail, no reason is there to allow the present petition and grant concession of regular bail to the petitioner. The petition being without merit stands dismissed.

17.07.2020
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No