

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

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CRM-M-14704-2021

Date of Decision : August 19, 2021

VISHAL@ VICKY

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Vikram singh, Advocate
for the petitioner.

Mr. Bhupinder Singh, DAG, Haryana.

Mr. Pankaj Bali, Advocate
for the complainant.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

CRM-24030-2021

This application has been filed for placing on record
compromise dated 23.7.2021 Annexure P-2.

For the reasons mentioned in the application, the same is
allowed subject to all just exceptions.

Main case

The present petition has been filed under Section 439 of the
Code of Criminal Procedure for grant of regular bail to the petitioner in
case FIR No.32 dated 25.1.2020 under Sections 307, 452, 34 IPC and
section 25 of the Arms Act, 1959, Police Station Butana, District Karnal.

As per the prosecution version, the present FIR was lodged
on the basis of a complaint made by one Hoshiar Singh son of Zile Singh
that when he along with his family were sitting in a room then three boys

came and attacked him and out of them one was armed with the revolver and he had taken out the revolver from dabb and tried to make fire in the air and the other two boys also held him. As per the FIR, the name of the boy who was armed with the revolver and who had hit him on the shoulder was one Akshay and the other person according to the informant was Vishal @ Vicky (petitioner).

The learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the present case and it was a case of mistaken identity. He submitted that the complainant himself has now filed a compromise/affidavit before this Court vide Annexure P-2 in which the complainant has stated that the petitioner was not present at the spot and he was not the same person who had come to his house.

Mr. Pankaj Bali, Advocate has caused appearance on behalf of the complainant and has endorsed that the affidavit/compromise Annexure P-2 has been executed by him and duly notarized. Mr. Bali has submitted that the person who had come to his house was not the petitioner and it was a case of mistaken identity.

Learned counsel for the petitioner has submitted that petitioner is in custody since 9.2.2020 and the investigation of the case is already complete and after the presentation of the challan even the charges have been framed. He submitted that the trial of case would take long time and, therefore, he may be considered for the grant of regular bail.

On the other hand, Mr. Bhupinder Singh, learned DAG, Haryana has stated that although an affidavit has been filed by the complainant and has been executed by the complainant but the same cannot become a ground for grant of bail in view of the fact that the matter under Section 307 IPC cannot be compromised.

I have heard the learned counsels for the parties.

The learned counsel for the complainant has himself endorsed the arguments raised by the learned counsel for the petitioner that the complainant has executed the affidavit in which he has stated that the petitioner was not the same person who had come to his house. The custody of the petitioner is not disputed by the learned State counsel which is about one and half years. The investigation of the case is already complete and the charges have already been framed. Further-more, it is not a case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may flee from justice.

Therefore, considering the totality of the circumstances of the present case, I deem it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

August 19, 2021
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No