

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

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**CRM-M-44898-2021
Decided on : 07.12.2021**

Akshay

. . . Petitioner(s)

Versus

State of Haryana and another

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Deepak Sharma, Advocate
for the petitioner(s).

Ms. Ambika Sood, Addl. AG, Haryana
assisted by ASI Karambir.

Mr. Pankaj Bali, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (Oral)

This is the second petition filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 32, dated 25.01.2020, under Sections 307, 452, 34 of IPC & under Sections 25, 54, 59 of the Arms Act, 1959, registered at Police Station Butana, Karnal.

Learned counsel for the petitioner submits that subsequent to the withdrawal of the previous petition on 09.01.2021, both the material witnesses i.e. the complainant (stamped witness) and the eye-witness, while stepping into the witness-box as PW-1 & PW-2, respectively, had not supported the case of the prosecution, as a result of which, they were declared hostile. In support of his contentions, learned counsel has invited the attention of this Court to the deposition of PW-1 & PW-2 (annexed as Annexures P-1 & P-2, respectively).

Learned counsel further submits that in the aforementioned circumstances, it is evident that it was on account of mistaken identity, the

petitioner had been falsely implicated in the case in hand. It has been submitted that since both the material witnesses stand examined, further incarceration of the petitioner would not serve any useful purpose, since the trial is going to take considerable time to conclude.

Per contra, learned State counsel assisted by learned counsel for the complainant, does not dispute the factum of both the material witnesses turning hostile before the trial Court.

Heard.

In the facts and circumstances of the case as enumerated hereinabove, the trial is unlikely to conclude in the near future, as 17 prosecution witnesses remain to be examined, coupled with the fact that the material witnesses have turned hostile before the trial Court. The petition as such is allowed. The petitioner be admitted to bail to the satisfaction of trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 07, 2021

J.Ram

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