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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 1619 of 2023 (O&M)

Date of Decision:- 21.11.2023

SHIVAM MOTA ALIAS SHUBHAM ARORA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Manvinder Sidhu, Advocate for the petitioner.

Mr. Subhash Godara, Addl. AG. Punjab.

Mr. Saurav Kanojia, Advocate for the Complainant.

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SANJIV BERRY, J. (ORAL)

CRM- 46344 of 2023.

The instant application is for placing on record copy of compromise dated 09.10.2023 as Annexure P-8. The same is taken on record.

CM stands allowed.

Main Case

1. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
93	26.06.2022	307, 148, 149, 506 and 120-B and Section 25 of Arms Act	Division No.3, Ludhiana.

2. Brief facts of the case put forth by the prosecution are that Kranti- complainant father of the injured states that his son Kartik Baggan was going to Manohar Nagar, Ludhiana to leave his aunt on motor-cycle and complainant was also following his son on another motor-cycle when they reached near Jain Public School near Benjamin Road, CMC Chowk, Ludhiana, then on the opposite 8-10 persons were standing on the three motorcycles on the road, out of them Karan Kalia, Vishnu Kainth, Kamal, Kunal Sharma, Dikshant Tandon, Nik Oberoi, Billa Wadda, Karan Sharma, Raman Rajput, Neeraj Rajput stopped the motorcycle of complainant's son and surround him and his son's motorcycle and talked on video call to Shivam Mota and Rishab Benipal saying to complete the task to kill Kartik today and in the meantime Karan Kalia took the pistol and fired two shots on Kartik with an intention to kill him, on raising alarm "marta-marta" all the above persons ran away, complainant saw a lot of blood coming out from the right side of his lower back of his son, after arranging the transportation Kartik was brought for treatment at CMC Hospital, Ludhiana and hence the FIR was registered.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He further submits that Assistant Commissioner of Police, Ludhiana had found the petitioner to be not involved in the instant FIR in report dated 12.11.2022 (Annexure P-3). Even the prosecution had moved an application (Annexure P-5) before the learned trial Court stating that the petitioner may be discharged as petitioner is not involved in the FIR that is in question.

During the time of alleged incident, the petitioner was incarcerated at Central Jail, Faridkot in connection with another FIR and it is only with the intent of preventive release of the petitioner that two more FIR were planted on the petitioner. It is further contended by the counsel for the petitioner that the allegations levelled against the present petitioner are false as no injury has been attributed to the present petitioner. It is further contended that a compromise (Annexure P-8) has been effected between the parties and now nothing remains due towards both the parties and hence prays for grant of concession of regular bail.

4. On the other hand, learned State counsel has opposed the bail application by arguing that even though the petitioner was not present at the place of occurrence, has played an active role as he was on video call during the said occurrence. He admits that the petitioner was lodged in Central Jail Faridkot in connection with other cases during the said occurrence and he was formally arrested in the present case on 02.07.2022. He further submits that the petitioner is a habitual offender and apart from the present FIR the petitioner is involved in 14 other criminal cases and as such he prays for dismissal of the petition.

5. Mr. Saurav Kanojia, has put in appearance on behalf of complainant and filed Power of Attorney, the same is taken on record. Learned counsel for complainant submits that the matter has been settled amicably between the parties vide Annexure P-8 and as such he has no objection, if the bail petition of the petitioner is allowed.

6. After considering the rival contentions and perusing the record, it transpires that the present FIR was lodged on 26.06.2022 on the basis of

the statement of the complainant -Kranti and on that date of occurrence the present petitioner was confined in Central Jail, Faridkot, Punjab, as such no injury is attributed to the petitioner. It is also admitted that as per statement made by counsel for the complainant, the matter has been amicably settled between the parties and he has no objection, if the bail petition is allowed. As such, no useful purpose would be served by keeping the petitioner behind bar any longer. The criminal liability, if any, to the petitioner would be ascertained after conclusion of trial, which may take sufficient long time.

7. Consequently, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

9. Pending application(s) if any shall also stand disposed of.

(SANJIV BERRY)
JUDGE

21.11.2023

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |