

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

CRM-M-25576-2017(O&M)

Date of decision: 14.9.2017

Sonu

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Abhimanyu Singh, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

CRM-28210 of 2017

Allowed, as prayed for, subject to all just exceptions.

CRM-M-25576-2017

This petition for regular bail has been filed by petitioner –
Sonu – an accused in FIR No.17 dated 23.1.2016, under Sections 457,
380, 427 IPC, registered with Police Station City, Bhiwani.

Briefly stated, the allegations as per prosecution story are
that FIR in this case was lodged at the instance of Neeraj Kumar son of
Suresh Kumar, resident of House No.966, Sector-2, HUDA Rohtak
working as Co-ordinator in AGS Transact Technologies Ltd. Company,

which had installed ATM Machines in all banks in the Districts, one of which being ATM IDBI Bank, in Shop No.3, Auto Market, Tosham byepass, Bhiwani. On 23.1.2016, the complainant came to know through Naresh, Supervisor that around 7/7:30, some unknown persons after breaking glass door had entered the shop and taken away Rs.2,57,200/- cash from ATM machine. After registration of the formal FIR, the matter was investigated. Initially an untraced report was prepared and filed in the Court. However, on 29.6.2016 on receipt of secret information, HC Davender Kumar, AVT Staff, Bhiwani arrested accused Sonu, Sheokin and Ram Avtar alias Dholia. All of them suffered disclosure statements with regard to their involvement in the instant incident and in pursuance of said disclosure statements, Sheokin got recovered an amount of Rs.5,000/- besides a tractor used in commission of crime, Ram Avtar got recovered a sum of Rs.2,500/-. On 30.6.2016, during investigation both accused Sheokin and Ram Avtar suffered disclosure statements that Sonu son of Sube Singh, resident of village Legha (present petitioner) was also involved in the crime; that they had taken ATM machine by putting it on the tractor and thereafter threw the same in a drain near Hansi. On 5.7.2016, accused Sonu, who was lodged in District Jail, Bhiwani was joined in the investigation. He was arrested. His disclosure statement was recorded in pursuance thereof he got recovered a hammer, chisel (chhani) and pointed blade (saw) used for cutting the ATM machine. On 6.7.2016, accused Sonu (petitioner) also got demarcated the spot where they had thrown ATM machine and the same was recovered by Hisar police. Accused Sonu had also got recovered an amount of Rs.35,000/- from his

house. The petitioner had filed an application for regular bail in the Court of Sessions, which was declined by Additional Sessions Judge, Bhiwani vide order dated 24.5.2017, as such, he has approached this Court with same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has argued that petitioner is not named in the FIR. His name has been cropped up in the disclosure statements of co-accused which are inadmissible in evidence. Furthermore, both the co-accused have been granted bail inasmuch as Om Pal has been granted bail by a Co-ordinate Bench of this Court in CRM-M-26428 of 2017 on 1.9.2017 whereas Ram Avtar @ Dholiya has also been granted such benefit by learned Additional Sessions Judge, Bhiwani vide order dated 5.5.2017, therefore, on the question of parity also, the petitioner be granted concession of bail. Whereas learned State counsel has contended that petitioner is a habitual offender. He had committed the murder for which he was convicted by Juvenile Justice Board. He is involved in other cases i.e. FIR No.179 dated 22.6.2012, under Sections 392 read with Section 34 IPC, registered with Police Station Tosham, FIR No.407 dated 18.8.2014, under Sections 457, 380 IPC, registered with Police Station Sadar, Bhiwani and in case he is released on bail, there is every likelihood of his committing several incidents and therefore he is danger to the society and should remain behind bars for the time being.

After hearing the rival contentions, I find that allegations against the petitioner are indeed very serious. He along with his co-accused had damaged ATM machine and looted money therefrom, which was distributed amongst the petitioner and his co-accused. The ATM machine was also damaged and thrown in the ditch. He had got a past criminal record and is involved in two more cases of similar type. Thus the facts and circumstances do not warrant his release on bail. As regards his co-accused, their cases were different from those of petitioner, as such there is no question of any parity with them. In that way, the petitioner is a habitual criminal. There is every apprehension of his tampering with the prosecution evidence and absconding, if released on bail.

Therefore, finding no merit in the petition, the same stands dismissed.

14.9.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No