

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

CRL. MISC. No.M-8559 OF 2017 (O&M)
DATE OF DECISION : 22nd MARCH, 2017

Abhishek Randhawa @ Jimmy @ Sunny

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

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Present : Mr. Ranjit Singh, Advocate for
 Mr. Pawan Sharda, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. A.G. Punjab.

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A. B. CHAUDHARI, J. (ORAL)

The petitioner has filed the present petition under Section 439 Cr.P.C. seeking regular bail in FIR No.66 dated 24.04.2016 registered under Sections 392 IPC, which was deleted later on and Section 395,120-B IPC and Section 25/27/54/59 of Arms Act were added later on, at Police Station Haibowal, District Ludhiana.

Heard learned counsel for the rival parties.

It is not in dispute that the victim-complainant, the resident of Andheri West, Mumbai did not know the accused person who had snatched away valuable articles from her by committing offence of robbery as alleged by the prosecution. The petitioner in this case was arrested on 27.04.2016.

Learned State counsel upon instructions from the IO who is present in Court and upon perusal of the police case diary makes a statement that the petitioner after arrest was identified by the victim in

the police station in the presence of two Head Constables. She also states that accordingly a memorandum to that effect was prepared which form the part of challan.

It is the trite law that the accused when is not known to the victim/complainant or eye witnesses, after arrest is/are required to be put up for test identification parade to be held under Naib Tehsildar/ Tehsildar/ Sub-Judicial Magistrate/ Special Executive Magistrate/ Executive Magistrate by summoning him/them either in the jail or in the police station along with two independent witnesses un-connected with the police department. It is also trite law that such an evidence in the nature of test identification parade is corroborative in nature and in normal course, the prosecution relies on such evidence. It is also a well settled legal position that identification after arrest in the presence of the police officers, acting as witnesses has always been viewed by the courts in a doubtful or suspicious manner. Thus the preparation of memorandum of Test Identification Parade and signatures of the police personnel on the memorandum as witnesses and identification immediately after arrest in the police station is destructive of the settled investigation procedures and the admissible legal evidence.

In my opinion, the matter is serious looking to the fact that large number of offences relating to snatching, robbery and dacoity by the persons unknown to the victims are being committed.

I, therefore, direct the Director General of Police, Punjab to file his affidavit as to what steps will be taken on emergent basis to rectify the remedy the mistakes as pointed out above. The affidavit shall be filed on or before 29.03.2017 and the matter shall be heard on 30.03.2017 for further consideration on that issue.

Insofar as the present bail petition is concerned, I have perused the evidence of PW-2 Lad Kaur the victim, who has been examined and cross-examined by the trial Court. The petitioner was arrested on 27.04.2016 and is in jail since then and the main witness has been examined.

In the light of the above discussion the petitioner has made out a prima facie case for grant of regular bail particularly because the petitioner is not facing any other case of the similar nature.

In that view of the matter I make the following order:

ORDER

- (i) The petition is allowed and the petitioner be released on bail to the satisfaction of the concerned CJM/Duty Magistrate.
- (ii) To come up for affidavit of Director General of Police, Punjab on **30.03.2017**.

Copy of this order be supplied to the learned State counsel under the signatures of the Bench Secretary for compliance.

22nd MARCH, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No