

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

**Criminal Misc. No. M-20098 of 2018
Date of decision: 04.07.2018**

Dilraj

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Ms. Puja Chopra, Advocate
for the petitioner.

Mr. Rahul Rathore, DAG, Punjab
for the respondent -State.

Daya Chaudhary, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. on behalf of petitioner-Dilraj for grant of regular bail in case FIR No.039 dated 04.02.2018 registered under Sections 382, 392, 473 read with Section 120-B of Indian Penal Code and Section 25, 54 and 59 of the Arms Act at Police Station Zirakpur, District SAS Nagar.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case and no recovery was effected from him. The alleged recovery has been planted upon the petitioner. Learned counsel further submits that the petitioner has not been named in the FIR and no role has been attributed to him. It is a case of theft of vehicle, which was allegedly stolen/snatched from the driver by some unknown persons and recovery of the vehicle was not made from the petitioner. Learned counsel also submits that the FIR was registered on the basis of secret

information. As per case of the prosecution, three accused were apprehended and recovery of the vehicle was effected from all three accused. The petitioner is in custody since 11.02.2018 and no purpose would be served by keeping the petitioner in custody. No independent witness was joined at the time of recovery of the vehicle and as such, there is no independent corroboration to show that the recovery was effected from the petitioner. Even the signature of the petitioner is not there on the recovery memo, which indicates falsity of the case of the prosecution upon the petitioner. The petitioner undertakes to abide by all terms and conditions to be imposed by this Court or by the trial Court and also undertakes not to pressurize or influence the witnesses or temper with the evidence. Learned counsel also submits that the petitioner has been implicated in the case only on the basis of disclosure statement, which has no evidentiary value and cannot be relied upon. Learned counsel for the petitioner has also relied upon judgments rendered by this Court in ***Harpreet Singh vs. State of Punjab, 2015(34) RCR (Criminal) 350*** and ***State of Punjab vs. Harbhajan Singh, 1991(3) RCR (Criminal) 403*** in support of his contentions.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner but has not disputed the fact that the petitioner was not named in the FIR and has been implicated in the case on the basis of disclosure statement made by the co-accused.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the contents of the FIR and other documents available on the file.

Admittedly, the petitioner was not named in the FIR and

subsequently, he has been implicated on the basis of disclosure statement made by co-accused. Two persons were named in the FIR and there is no reference regarding involvement of third person as per version of the prosecution. The recovery of the vehicle has already been effected from co-accused, namely, Harsimran Singh @ Simran and Ajaypal. There is no history of previous involvement of the petitioner in any other criminal case. The trial may take some time to conclude. Moreover, the disclosure statement has no evidentiary value and the same is not admissible in evidence under law. The vehicle in dispute was snatched from the driver by some unknown persons and no recovery was effected from the petitioner. The petitioner is in custody since 11.02.2018.

In view of the facts as mentioned above, the present petition is allowed and the petitioner (Dilraj) is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court.

04.07.2018
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No