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

CRM-M No. 12851 of 2020
Date of Decision: 09.06.2020

Sunil Kumar

-Petitioner

Versus

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. S.P.S. Dhaliwal, Advocate,
for the petitioner.

Mr. H.S. Sullar, D.A.G., Punjab.

RAJ MOHAN SINGH, J. (Oral)

The case has been taken up for hearing through video-conferencing.

Petitioner seeks grant of regular bail in case bearing FIR No.146 dated 31.12.2019 registered under Section 379-B (Section 201 IPC added later on) at Police Station Sadar Abohar, District Fazilka.

FIR was registered at the instance of complainant that on 29.12.2019, he was coming back after unloading buffaloes. At about 11 PM, a car came to be stopped in front of his vehicle. Five persons alighted from the car. They were muffled faces. They were having sharp sword. They snatched the keys of the vehicle and mobile set having sim and the bag containing RC of the motorcycle, Aadhar

Card, PAN card along with cash amount of Rs.6300/-. The aforesaid items were taken away by them, however, the keys were returned. With this background, the FIR came to be registered.

Petitioner was arrested in FIR No.0006 dated 28.01.2020 under Sections 399, 402 IPC and under Sections 25/54/59 of Arms Act.

During investigation of that case, petitioner was named in the present case i.e. FIR No.146 dated 31.12.2019 registered under Section 379-B (Section 201 IPC added later on) at Police Station Sadar Abohar, District Fazilka on the basis of his disclosure statement. The alleged incident took place on 29.12.2019 and the FIR came to be registered only on 31.12.2019. The petitioner was arrested in FIR No.0006 on 01.02.2020. In the said FIR, recovery of iron sword has been effected from the petitioner.

According to learned counsel for the petitioner, there is no recovery effected in the present case, however on 04.06.2020, learned State counsel made a categorical statement before this Court that recovery of Rs.5000/- has been effected from the petitioner.

In view of assertion and denial by the parties, it was directed that a specific affidavit by the Investigating Officer be filed, disclosing the factum of recovery from the petitioner in the present case.

In compliance of the aforesaid order, affidavit of SI Baljeet Singh, P.S. Sadar Abohar has been filed on behalf of respondent-State wherein a joint recovery of Rs.5000/- is shown

against all the accused persons. It has been stated that during investigation of the case, accused disclosed that they have committed the crime of the FIR in question, so the names of the accused persons were nominated in the case. Police recovered Rs.5000/- from the petitioner and co-accused on the basis of disclosure statement of co-accused.

In view of aforesaid factual position, recovery of Rs.5000/- from the petitioner alone is prima-facie found to be non-existent on the basis of affidavit filed by SI Baljeet Singh.

Petitioner was arrested on 28.01.2020 and since then, he is in judicial custody.

Learned State counsel submits that challan has been presented, but no prosecution witness has been examined so far.

Taking into consideration the totality of facts and circumstances of the case, petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

June 09, 2020
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned	:	Yes/No
2. Whether reportable	:	Yes/No