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

**CRM-M No.18929 of 2020
Date of Decision: 21.08.2020**

**SANJEEV KUMAR @ BHOLLA MAHAJAN
.....Petitioner**

**Vs
STATE OF PUNJAB
.....Respondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Rajesh K. Dadwal, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. 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 under Section 439 Cr.P.C in case bearing FIR No.12 dated 08.02.2020, registered under Section 379-B IPC at Police Station Mukerian, District Hoshiarpur.

FIR was registered at the instance of complainant Jaswinder Kaur, who alleged that on 07.02.2020 at about 12.30 p.m., she along with her sister-in-law Sheela Devi was going to her house on a scooty after purchasing household articles from the market. Complainant was driving the scooty

and her sister-in-law was a pillion rider. When they reached just ahead of new Gym situated at Fathuwal road, then a motorcycle came from behind. The driver was wearing a cap. He brought the motorcycle parallel to the scooty of the complainant and snatched one gold ear ring from the right ear of the complainant and ran towards Fathuwal side on his motorcycle.

The complainant further alleged that she can identify the accused on being produced before her. The occurrence took place on 07.02.2020 at about 12.30 p.m. The FIR came to be registered on 08.02.2020. The petitioner was arrested on 09.02.2020.

Vide order dated 04.08.2020, this Court directed the Investigating Officer to file specific affidavit to show as to on what basis the petitioner was arrested on 09.02.2020. Investigating Officer was also required to disclose whether the petitioner was identified by the complainant and Kamlesh by way of test identification parade in accordance with law.

In compliance of the aforesaid order, affidavit of Investigating Officer SI Gurdev Singh has been filed. The same is taken on record. Para Nos.3 and 5 of the said affidavit reads as under:-

“3. That it is humbly submitted that on 09.02.2020 the deponent alongwith police party was present at Adda Hajipur, P.S. Mukerian, District Hoshiarpur and got secret information that the petitioner who has criminal background and is habitual of committing snatching and thefts and is moving in market for selling gold earning and it appeared that he has committed fresh snatching today and he has turned towards street of Arya School, Mukerian, on foot and he also informed that if the petitioner is arrested today, many occurrences of snatching and theft could be traced out from him. On this, the deponent alongwith police party went towards street of Arya School, Mukerian and apprehended the petitioner near Arya School, Mukerian on 9.2.2020.

5. That it is humbly submitted that during the investigation, the petitioner was got identified from the complainant Jaswinder Kaur on 10-02-2020 vide memo of identification dated 10-02-2020. However, the petitioner was not got identified in presence of any gazetted officer.”

Perusal of the aforesaid affidavit would show that the petitioner was arrested on the basis of secret information on

09.02.2020. Name of the secret informer is not supposed to be disclosed by the Police. The petitioner was allegedly identified vide memo of identification dated 10.02.2020.

Learned State counsel submitted that challan has presented, but charges have not been framed so far. Due to the situation arising out of COVID-19 pandemic, the trial may take some time in its culmination.

Section 54-A Cr.P.C. deals with identification of person arrested. Where a person is arrested on a charge of committing an offence and his identification by any other person or persons is considered necessary for the purpose of investigation of such offence, the Court, having jurisdiction, may on the request of the officer in charge of a police station, direct the person so arrested to subject himself to identification by any person or persons in such manner as the Court may deem fit.

Non-adherence of the aforesaid requirement would make the case debatable. The Police has also recovered ear rings allegedly snatched by the petitioner belonging to Kamlesh after memo of identification dated 13.02.2020, whereby Kamlesh also identified her ear rings allegedly snatched by the petitioner. At this stage, it appears that the case would be arguable as regards the complicity of the petitioner.

Looking to the aforesaid facts and in view of the situation arising out due to COVID-19 pandemic and without advertng to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

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

August 21, 2020
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No