

210

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

**CRM-M No.19938 of 2020(O&M)
Date of Decision: 19.11.2020**

Sushil Kumar

.....Petitioner

Vs

State of Haryana

.....Respondent

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

Present: Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

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.0007 dated 04.01.2020 registered under Sections 332, 353, 395, 427, 511 IPC (Section 397 IPC and Sections 25/54/59 of the Arms Act added subsequently) at Police Station Bhuna, District Fatehabad.

The allegations against the petitioner are that on the intervening night of 03.01.2020/04.01.2020, he along with co-accused namely Sunil Bishnoi, Sagar, Amit, Sukhbir @ Kida,

Sonu etc had taken out an amount of Rs.3000/- dishonestly by cutting the shutter of ATM of SBI installed in village Jandli Kalana with help of gas cylinder and gas cutter. Petitioner was arrested on 01.02.2020. Innova car has been recovered from the petitioner.

On the basis of aforesaid allegations, regular bail was declined to the petitioner. Petitioner is owner of the Innova car. Disclosure statement of co-accused Sonu was recorded in which he had disclosed the entire occurrence of ATM breaking and also disclosed the involvement of Innova car belonging to the petitioner. The petitioner was found to be owner of the car which was used in the occurrence. An amount of Rs.3000/- was recovered from the petitioner which was dishonestly taken away by the petitioner from ATM machine.

On 05.11.2020, learned State counsel sought time to place on record copy of challan to show that the aforesaid amount was the same amount which was stored by the Bank in the aforesaid ATM machine.

In pursuance of aforesaid order, learned counsel for the petitioner brought on record statement of Des Raj, Bank Manager of SBI Jandli Kalan recorded under Section 161 Cr.P.C wherein the factum of the amount to the tune of Rs.9 lacs having been stored in the ATM was stated, but an amount

of Rs.3000/- was found less. Amount of Rs.3000/- was not identifiable with reference to any specific mark to make it the tainted amount.

In view of additional status report submitted by way of affidavit of Ajaib Singh, HPS, Deputy Superintendent of Police, Fatehabad, it has been submitted that the alleged looted money of Rs.3000/- has not been effected from any accused. Para No.4 of the status report reads as under:-

“4. That it is further respectfully submitted that in the present case, total 9 accused namely 1. Amit Kumar, 2. Sushil Kumar (present petitioner), 3. Raj Kumar alias Sorabh, 4. Sonu alias Bachchi, 5. Sunil Kumar, 6. Sagar, 7. Ajay alias Kishori, 8. Saktiman alias Shakti and 9. Kuldeep alias Sukhbir Singh have been arrested. However, any recovery of lotted amount of Rs.3,000/- has not been effected from any accused.”

Petitioner is in custody since 01.02.2020. No prosecution witness has been examined so far. Petitioner is not involved in any other case.

In view of aforesaid factual position, the complicity of the petitioner would remain debatable.

Looking to the aforesaid facts and in view of the situation arising out due to COVID-19 pandemic and without adverting 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 regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

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

19.11.2020	(RAJ MOHAN SINGH)
<i>Prince</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No