

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

CRM-M No.8555 of 2021(O&M)

Date of Decision: 03.03.2021

Sunil Kumar

.....Petitioner

Vs

State of Haryana

.....Respondent

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

Present: Mr. Amit Choudhary, 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.

It is not in dispute that the case of the petitioner is at par with co-accused Sushil Kumar and Shaktiman @ Shakti who have been granted bail by the High Court vide order dated 19.11.2020 passed in CRM-M No.19938 of 2020 and vide order dated 17.02.2021 passed in CRM-M No.6294 of 2021 respectively.

The allegations are that the accused party had taken out an amount of Rs.3000/- dishonestly by cutting the shutter of ATM of SBI installed in village Jandli Kalana with the help of gas cylinder and gas cutter.

During course of investigation, it has come on record in the form of statement of Des Raj, Bank Manager of SBI Jandli Kalan recorded under Section 161 Cr.P.C that amount to the tune of Rs.9 lacs was stored in ATM, but only an amount of Rs.3000/- was found less and the said amount was not identifiable with reference to any specific mark so as to make the same a tainted amount. The status report submitted by the police in CRM-M No.19938 of 2020 would show that the alleged lotted money of Rs.3000/- was not effected from the accused. Para No.4 of the status report by way of affidavit of Ajaib Singh, HPS, Deputy Superintendent of Police, Fatehabad would show the following recital:

“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.3000/- has not been effected from any accused.”

Petitioner is in custody since 20.02.2020. No prosecution witness has been examined so far.

Learned State counsel, however, opposed the bail on the ground that the petitioner is also involved in eight more cases.

Learned counsel for the petitioner submits that the petitioner is on bail in all other cases.

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

At this stage, without forming any opinion on 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 would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

03.03.2021
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No