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

CRM-M No.24993 of 2021(O&M)

Date of Decision: 08.07.2021

Partik

.....Petitioner

Vs

State of Haryana

.....Respondent

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

Present: Mr. Manvender Rathi, 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.248 dated 02.11.2020 registered under Sections 379-B, 394, 395, 397 IPC and Sections 25, 54, 59 of the Arms Act at Police Station Badli, District Jhajjar.

FIR was registered at the instance of Chanderphool who was working as salesman on Sri Ram Filling Station, Bamrola. On 02.11.2020, the complainant was on the machine and in the meanwhile, a car came for getting the oil. Oil of

Rs.2100/- was filled. On demand of money, occupants of the car asked for swipe m/c. The complainant replied that the machine was out of order, on which all the four occupants of the car got down and caught hold the complainant from back. One boy was having pistol, who hit the complainant on upper side of left ear and snatched an amount of Rs.25,000-30,000/- and a mobile phone. Thereafter, another boy pointed out pistol at the temple of Jitender Kumar and asked him about the cash. Thereafter, they pointed out pistol at the temple and took him in the office room and demanded for key of the drawer and snatched an amount of Rs.2,50,000/-. At that time, salesman Pardeep Mishra was present in the bathroom and Poonam Yadav was cooking the meals. The complainant called the owner of the filling station and police came. All the accused were stated to be in the age group of 25-20 years and all were with muffled faces.

Learned counsel for the petitioner submits that age of the petitioner as of now is only 18 years, 2 months. He is not amongst those persons whose descriptions have been given in the FIR. Petitioner is the fifth person arrayed in the FIR and on coming to know about the innocence of the petitioner, the complainant himself appeared before the trial Court and made a statement showing no objection qua the bail of the petitioner.

On the other hand, learned State counsel submits that

in pursuance of disclosure statement, petitioner got recovered an amount of Rs.9500/-. Challan has been presented, but charges have not been framed.

Having considered the case and without forming any opinion on merits of the case, I find that the identity of the petitioner would remain debatable firstly for the reason that all the accused persons were stated to be with muffled faces. Secondly, no test identification parade was conducted. Section 54-A Cr.P.C deals with identification of the person arrested. Where a person is arrested on a charge of committing an offence and his identification by any other person is considered necessary for the purpose of investigation of such offence, the Court having jurisdiction may on the request of police officer, direct the person so arrested to subject himself to identification by any person in such manner as Court may deem fit.

Since no identification parade has been conducted, therefore, identity of the petitioner would remain debatable. Thirdly, the recovery of an amount of Rs.9500/- cannot be termed as tainted money, which was allegedly snatched from the petrol pump for want of mark of identification on the currency.

For the reasons mentioned hereinabove and without advertng to the merits of the case, I deem it appropriate to

enlarge the petitioner on regular bail, who is in custody since 04.02.2021.

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.

08.07.2021

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No