

217

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-43515-2023****Date of Decision:06.09.2023**

Sabar Ansari

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Aditya Anand, Advocate with
Mr. Vikram Rathore, Advocate and
Mr. Sumit Rana, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.388 dated 03.10.2022 registered under Sections 323, 379-B, 120-B, 201 and 411 of IPC at Police Station, Sector-14, Panchkula.

The FIR in the present case was registered on the basis of the statement made by Laxmi Narayan @ Lucky, who was running a business of transfer of money, in Bapudham, Sector-26, Chandigarh. On 03.10.2022, he started from home and collected the cash from different persons. After collecting the cash as aforesaid, he reached near Government Tubewell, where three unidentified boys stopped his bike and started talking to him. They attacked the complainant with some pointed weapon and snatched his bag and fled from the spot. They had looted the money collected by the complainant,

his DL, RC, Aadhaar Card, Voter Card, ATM Card, Credit Card, Account book and other documents, which were lying in the bag. With these allegations, the FIR in the present case was registered against unknown persons.

Learned counsel for the petitioner contends that the petitioner has not been named in the present FIR and there is no averment in the FIR, which even remotely connects the petitioner with the alleged crime. He further contends that even there was a dispute with regard to the identity of the present petitioner and the petitioner has been wrongly arrested by the police, without following the due process of law. Even the identification parade was not conducted by the police in accordance with law. The petitioner was arrested in the present case on 14.10.2022 and is incarcerated for the last about 11 months. Learned counsel further contends that all the injuries suffered by the injured were simple in nature, which is evident from the MLR (Annexure P-9) and is a first offender. Learned counsel further contends that in the present case, only charges have been ordered to be framed by the trial Court and the trial Court may take sufficient long time in concluding the trial proceedings.

On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner was involved in a serious crime of snatching huge cash alongwith other belonging of the complainant and had caused injuries to the complainant and he was duly identified by the complainant also.

I have heard the learned counsel for the parties and perused the record.

Admittedly, the petitioner is in custody for the last about 11

months and is a first offender. The charges have been framed against the petitioner and his co-accused and no witness has been examined so far and the next date of hearing before the trial Court is fixed on 12.09.2023 for recording of the prosecution evidence. Apart from that, the State has not placed on record any evidence to show that the petitioner is in a position to influence the witnesses of the prosecution or may abscond from the process of law.

Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*

- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) *The concerned Court may insist on two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
- (viii) *The petitioner shall report every 1st Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.*

06.09.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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