

CRM-M-55284-2023

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

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Date of decision : 09.11.2023

Ombir**..... Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Rahul Makkar, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.179 dated 06.05.2023, registered for the offence punishable under Section 379-B of IPC (Sections 392, 397, 307, 411, 34 and 120-B of IPC added later on), at Police Station Sonapat Sadar, District Sonapat.

2. FIR was registered on the basis of statement made by Jagdish son of Rajbir, who alleged as under:-

“I am Jagdish S/o Rajbir R/o Harsana Kalan and is running a mobile shop at KalupurChungi. I used to go my home in the evening after closing the shop and used to carry my shop articles comprising mobile and accessory on my motorcycle by putting in my bag and used to set up the articles in the morning after coming to the shop. On 5-5-2023, after closing my shop at about 8:30 PM and after keeping my articles and cash bag was going to my house on my motorcycle. On the way at Harsana turn, Sunil son of my Tau has set up a shop of clay utensils. I stopped there for some time and then left for my house. At about 9:20 PM,

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when I reached near Pacific School on Harsana turn, then a boy from front side signaled me to stop. Upon which, I stopped my bike. The moment, when I stopped, the said unknown boy gave multiple blows upon my head with an axe carried by him in his hand due to which, I suffered various injuries on my head. Then the said unknown boy fled away from the spot after snatching my bag. My bag was containing approximately Rs.60000/- cash and mobile and accessories worth approximately Rs.3 Lakhs. Take legal action against the said unknown boy and my articles be got recovered.”

3. After about two months on 04.07.2023, Jagdish is stated to have suffered a supplementary statement alleging as under:-

“It is stated that I am resident of above mentioned address. I am running a mobile shop at KalupurChungi. On 05-05-2023, when at 08:20 PM, I was going towards my house from my shop KalupurChungias daily routine after putting the mobiles worth about Rs.3 Lakhs and about Rs.55,000/60,000/- in my bag, then due to pinching with the wallet kept in my back pocket, I also kept my wallet in the bag, which was comprising my Aadhar Card, HDFC Bank ATM, a Kotak Bank ATM, Driving License and other documents. When I reached at Harsana turn, then suddenly a young boy gave multiple blows in my head with axe and snatched my bag containing mobile and cash. Regarding which, I got lodged FIR in the Police Station Sonipat. At that time, due to suffering of injury, I could not disclose the entire history to the police. The day on which the said incident taken place with me, on that day, there were two boys involved in attributing injury. Due to suffering of injury, when I fell down from the motorcycle, at the same time, a boy had also come on the spot, who also gave me kick and fist blows after I fell down and both the boys took off bag from my neck. Later, I remember that on that day, there were two boys namely Ankush S/o Kuldeep R/o Village Rohna and Tushar alias Ankit S/o Kaptan R/o Village Pipli, whose names have been traced by me at my own level. They were seen meeting Ombir alias Biru R/o Tihar Kalan, who works in the shop of Manjeet at a distance of three shops

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from my shop, who had also chased me. I have full suspicion that Ankush, Tushar and Ombir alias Biru R/o Tihar Kalan have executed the offence in connivance with each other because 3 years ago, I had expelled Ombir from my shop. You please enquire them strictly and the truth will come forward. Statement got recorded to you, heard, which is correct.”

4. Counsel submits that if the supplementary statement after two months of the occurrence made by the complainant is taken on its face value, he names two boys i.e. Ankush son of Kuldeep and Tushar @ Ankit son of Kaptan. So far as the present petitioner is concerned, it has been only claimed that the complainant saw two culprits meeting only. Investigation already stands concluded. Petitioner is behind bars since 21.07.2023. Further reliance is being placed upon order dated 11.10.2023, whereby co-accused namely Manjeet Kumar stands admitted to bail.

5. In view of above and by granting parity, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

6. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

09.11.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No