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2024:PHHC:034449

CRM-M-11463-2024
Date of decision : 11.03.2024

...Petitioner

....Respondent

Mr. J.S. Arora, DAG, Punjab with ASI Lakhvir Singh.

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.109 dated 18.09.2023 registered for the offences punishable under Sections 379-B/506 of the Indian Penal Code, 1860 and under Sections 25/27 of Arms Act, 1959 at Police Station Nakodar Sadar, District Jalandhar.

2. FIR was registered on the statement made by Amrish Sharma alleging as under :

“xxx I am resident of above said address and the Indian Oil Petrol Pump KSK in village Kullar P.S. Sadar Nakodar is of Varun Sharma son of Chander Mohan Sharma r/o Shekhupur P.S. Kapurthala is son of my Taya Ji. I received the call from him saying that I have come to Chandigarh and some snatching has taken place and asked me to go and see it. I reached petrol pump in village Kular where the worker Sanjay Kumar son of Navgir r/o village Bankatwa P.S. Mankapur Distt Gonda (UP), Amarjit Kumar son of Rameshwar Paswan r/o Kharka Telwa PS Nahota District

Serasa Bihar told me that two young persons came on motor cycle at 2.20 pm from Kala Sangiya Road and they had muffled their faces. The person sitting on the pillion had pistol who threatened me and snatch the bag containing money and there was about Rs.1 lakh cash in it and they also took our three mobile phones and went towards Kular village side while threatening us. Statement given which is correct. Action be taken Sd/-”

3. Counsel for the petitioner submits that the FIR was registered against unknown persons and there is no incriminating evidence against the petitioner apart from confession made by him while in police custody.

4. State Counsel submits that the petitioner was in fact arrested in another case wherein he suffered confession w.r.t. his involvement in the present case. However, he admits that there is no recovery in the present case.

5. Counsel for the petitioner thus submits that the only incriminating evidence against the petitioner that too in form of confession while in police custody would be hit by provisions of Sections 25 and 26 of the Indian Evidence Act and thus cannot be relied upon to drive home the guilt of the petitioner.

6. I have heard counsel for the parties and have gone through records of the case.

7. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner, nature of allegations and the nature of evidence against him, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail

bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

March 11, 2024	(Pankaj Jain)
Dpr	Judge

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