

CRM-M-57943-2023

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2024:PHHC:005561

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

CRM-M-57943-2023
Date of decision : 16.01.2024

GULSHAN KUMAR @ SHERUPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Dinesh Trehan, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

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.24 dated 15.02.2023 registered for the offences punishable under Sections 379-B, 323, 34 of IPC and Section 201 IPC added later on, at Police Station Sadar Jagraon, District Ludhiana Rural.

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. FIR was registered against unknown persons alleging as under :

“xxx Stated that I am resident of above given address. Sidhwan Bet, for a I am in Durga Mandin long time. On dated 14.02.2023 I and my driver Lovepreet Singh son of Charanjeet Singh resident of village Adraman, Police Station Mehitpur, by riding

in our Baleno Car bearing NO.PB25G-7786 in our relation, after attending marriage at Ahmadgarh were returning to Sidhwan Bet via Jagraon. When we reached some distance ahead from HP Petrol Pump towards Sidhwan Bet, then due to urgent urination driver Lovepreet took the vehicle on katcha passage and just stopped then in the meantime one car, which later on came to know that car Swift VDI out of which two unidentified person who has tied their mouth came down from the car who by showing pistol like thing gave their butt on his chest and by entering in the vehicle caught hold him and second unknown person showed me datar type thing and manhandled with me in the vehicle and snatched gold chain from my neck and took out gold ring from my right hand and the second parson removed gold chain and ring from the driver Lovepreet Singh, while going the assailants gave me reverse side datar blow on right side of my head. Gave one injury on right knee and when they gave third blow on me then I raised my right hand, which hit on my right hand and on the thumb and inside the finger. Thereafter the accused while going also took away my small lying in the back seat of my car in which Rs.10,000/- and urgent documents were lying they also took away that bag by giving threats and ran away in their V.D.I. Car white colour, two young men kept sitting in the car, who had kept the car in start mode. The above accused had thrown the keys of our car and our mobiles in the bushes, which we had seen in an injured condition by the above young men while throwing. By picking up mobile phone, Lovepreet Singh dialed on his phone number then we find the key and mobile phone from the bushes and on the asking of the passer bye we had reached Kalyani Hospital, Jagraon. Where the doctor after giving first aid had referred us to Civil Hospital, Jagraon. Where doctor issued my MLR No.51/07/JAG/2023 dated 14.02.2023 that the above occurrence is of 10:39AM. Today I got recorded my statement alongwith my son Mohit Kaur, heard, which is Legal action be taken correct. Appropriate against the unknown persons and against VDI Swift Car white colour and by

threatening and causing injuries have snatched gold ornaments and cash bag. I have read over the statement, which is correct. Due to my ill health, today I have come to you. Sd/- Vinod Kumar. Corroborate by Sd/- Mohit xxx”

4. Petitioner who was wanted in FIR No.223 dated 25.10.2021 registered for the offences punishable under Sections 307/294/506/148/149 IPC and Section 25/54/59 of Arms Act, at Police Station City Jagraon was arrested. As per the prosecution the complainant is stated to have identified the present petitioner as one of the culprits but it is also admitted that no test identification parade was conducted. The petitioner is behind bars for more than 5 months and 29 days.

5. Bail plea is being opposed by the State Counsel on the ground that the petitioner is a habitual offender having more than 15 cases against him.

6. Faced with the situation counsel for the petitioner submits that that after the petitioner was apprehended more than 8 cases against unknown persons have been yoked to the petitioner on the basis of his confession made in the police custody which itself is not admissible being marred by provisions of Sections 25 and 26 of the Evidence Act.

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

8. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and the fact that Challan stands presented and thus there can't be any apprehension that the petitioner

shall tamper with the evidence, 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.

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

January 16, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No