

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

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CRM-M-20677-2022 (O&M)

Date of Decision: 19.05.2022

Satwinder Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. G.S.Ghuman, Advocate,
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by SI Raj Kumar.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.56 dated 13.04.2021 at Police Station Raipurani, District Panchkula, under Sections 364/392/394 IPC (Sections 120-B/201 IPC and Section 25/54/59 of the Arms Act added later on).
2. The FIR was lodged at the instance of Nisha Chaudhary, wherein it is alleged that on 13.04.2021 she was proceeding from her flat at Zirakpur along with friend of her son Rahul in their car which was being driven by their driver Satwinder Singh. It is alleged that when they reached a little ahead of Raipur Rani towards Naraingarh at about 4 pm, then a cream coloured Chevrolet vehicle forcibly made their vehicle stop and three persons alighted from the said vehicle. One of the said persons opened

- the driver's door and slapped driver Satwinder and dragged him out of the car. Another person opened front left side door and slapped Rahul, who was sitting on front passenger seat and dragged him out. One of those persons sat inside the car on the driver seat while another sat on the front passenger seat, who brandished a pistol. The other person was carrying a knife. He took the car towards Naraingarh and proclaimed that they had kidnapped her for the purpose of murdering her. It is alleged that the said persons snatched the complainant's credit card, ATM cards, her mobile phone and also an amount of Rs.4 lakhs which had been kept in boot apart from the gold chain worn by the complainant and also a diamond pendant. Later they stopped the car and pushed out the complainant and fled away.
3. Learned counsel for the petitioner has submitted that although he is referred to in the FIR as a driver of the complainant, but he is nowhere referred to as an accused in the FIR and came to be nominated subsequently as an accused solely on the basis of some call details record and that apart from the said call details record, there is no other evidence to connect him with the alleged occurrence. It has further been submitted that since other 4 co-accused have already been granted bail by this Court vide order dated 28.03.2022 (Annexure P-4), the petitioner also deserves the same relief on the grounds of parity.
 4. Opposing the petition, learned State counsel has submitted that during the course of investigation, it has surfaced that the petitioner had actively been in touch with the remaining co-accused, which would clearly show

that he was part & parcel of the conspiracy and that in these circumstances, his complicity is clearly evident particularly when a recovery of Rs.20,000/- had also been effected from him. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 1 year and that no other case is pending against him. It has also been informed that as on date only 1 out of cited 22 PWs has been examined.

5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the petitioner was not referred to as an accused in the FIR, but came to be nominated subsequently on the basis of call details record collected by the investigating agency during the course of investigation. However, this Court finds that the complainant Nisha Chaudhary, who had witnessed the entire incident, has resiled from her statement when she was examined during the course of proceedings of trial and did not identify any of the accused. The other 4 co-accused have already been granted bail on account of resiling of Nisha Chaudhary. In these circumstances, the fact that the petitioner was in touch with those 4 co-accused would be inconsequential, as it cannot be said with certainty that he was in touch with the persons, who had committed the offence as Nisha Chaudhary has already resiled qua the said accused. The petitioner has been behind bars for a substantial period of about 1 year. Conclusion of trial is likely to take time as only 1 out of cited 22 PWs has been examined so far. As such, the petition is accepted and the petitioner is ordered to be released on regular bail on his

furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

19.05.2022

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(GURVINDER SINGH GILL)
JUDGE

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