

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

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**CRM-M-21949-2022
Date of decision: 25.05.2022**

NARENDER ALIAS NANHA

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Rajesh Duhan, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G. Haryana.

Mr. Ashish Sinder, Advocate
for the complainant.

VINOD S. BHARDWAJ. J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No. 161 dated 28.07.2021 registered under Sections 380 and 458 of the Indian Penal Code, 1860 (Section 379-B and 34 of the IPC were added later on and Section 458 of the IPC was deleted) at Police Station Sadar Tohana, District Fatehabad.

2. Learned counsel appearing on behalf of the petitioner *inter alia* contends that the FIR in question has been registered at the instance of complainant Savitiri who has alleged that on 27.07.2021, when she was sleeping in her room at around 11:00 p.m., the petitioner caught hold her on the cot/bed and tied tape on her mouth and eyes and

they snatched away the gold ear rings belonging to the complainant. One person also hit her on the head due to which she suffered injuries. When the complainant tried to make noise and the accused persons jumped out of the window towards the shop and fled away.

3. It is contended that the petitioner along with two other co-accused namely Sonu and Sumit were arrested by the Police. The petitioner was been in custody since 05.08.2021 and has already undergone an actual custody of about 09 months. The charge in the case has been framed and the case is fixed for prosecution evidence on 01.06.2022. He however places reliance on the affidavit dated 06.05.2022 (Annexure P-1) sworn by complainant-Savitri wife of Johrimal as per which she has stated that the matter in question has been amicably resolved amongst the parties with the intervention of the respectable.

4. Per contra learned counsel appearing on behalf of the State submits that the petitioner is a habitual offender and 03 other cases have been registered against him. It is pointed out that recovery in question was effected from the petitioner.

5. Mr. Ashish Sinder, Advocate appears on behalf of the complainant and filed his Power of Attorney in the Court which is taken on record and has submitted that the affidavit in question has actually been sworn by the complainant and the matter has been amicably resolved between the parties. He has no objection in case the petition in question is allowed and the petitioner is enlarged on bail.

6. While controverting the submissions advanced by the learned State counsel, Mr. Rajesh Duhan, Advocate appearing on

behalf of the petitioner has contended that in the 03 other cases that were registered against the petitioner, he already stands acquitted. He further contends that the petitioner has already undergone an actual custody of 09 months in the instant case and that no further ends of justice would be secured by continued incarceration of the petitioner.

7. I have heard learned counsel appearing on behalf of the respective parties and have gone through the averments raised by them in the petition as well as during the course of arguments.

8. The factum of affidavit having been executed, the impact thereof and the availability of other evidence to establish the commission of crime at the end of the petitioner is a matter to be examined by the trial Court. It is not in dispute that in the other matters that were registered against the petitioner, he already stands acquitted. The trial in the instant case has not yet commenced. Hence, I am of opinion that the present petition deserves to be allowed by taking into consideration, the period of custody as also the circumstances noticed above, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

9. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

10. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

11. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall

decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

MAY 25, 2022

vishal sharma

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>