

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

218

CRM-M-29353-2022

Date of Decision: 15.07.2022

SUMIT @ MIXY

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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

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

Mr. Amit Aggarwal, DAG, Haryana.

Mr. Ashish Jhamb, Advocate for the complainant.

VINOD S. BHARDWAJ, J. (ORAL)

Instant 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 under Sections 380 and 458 of the Indian Penal Code, 1860 (later on Section 379-B read with Section 34 of the IPC was added and Section 458 of the IPC was deleted), registered at Police Station Sadar Tohana, District Fatehabad.

Learned counsel appearing on behalf of the petitioner *inter alia* contends that the instant FIR has been registered at the instance of one Savitri aged 75 years, who has stated in her statement that on 27.07.2021 at about 11.00 PM, when she was present at home, three persons entered her house and two of them caught hold of her on the bed. Thereafter, they snatched her gold ear-rings and when she raised objection, one person hit her with some sharp edged weapon, due to which she suffered simple injury on her head. Learned counsel contends that the petitioner is not named in the FIR and as per the allegations, the petitioner alongwith two other co-accused namely Narender @ Nanha and Sumit had committed the alleged

offence. As sum of Rs.1,000/- and 3.5 grams gold ear-rings are stated to have been recovered from the petitioner, who is in custody since 07.08.2021 and has already undergone actual custody of 10 months. It is contended that the investigation in the present case is already complete and challan already stands presented, however, no evidence has been recorded so far. A further reference is made to the affidavit dated 06.05.2022 (Annexure P-1) sworn by the complainant Savitri, wherein it has been stated that she has no objection to the concession of bail being granted to the petitioner. A reference has also been made to the order dated 25.05.2022 passed by this Court in the bail petition bearing No.CRM-M-21949 of 2022 and order dated 06.07.2022 passed by this Court in CRM-M-24314-2022, whereby the co-accused Narender @ Nanha and Sonu have been granted the concession of regular bail. It is further contended that the role attributed to the present petitioner is at par with the above mentioned co-accused persons.

On the other hand, learned State counsel does not controvert the aforementioned submissions advanced by the learned counsel for the petitioner. However, he has pointed out that the petitioner was involved in 06 other cases and recovery of Rs.1,000/- and 3.5 grams of gold ear-rings were also effected from the petitioner.

Mr. Ashish Jhamb, Advocate has appeared and filed power of attorney on behalf of the complainant and submits that the complainant has no objection to the concession of regular bail being extended to the petitioner.

Adverting to the objections raised by the learned State counsel, the learned counsel for the petitioner contends that out of those six cases, the petitioner has already been acquitted and three cases and in the other three

cases, the petitioner is on bail, and there is no other pending case against the petitioner except mentioned above. Furthermore, he contends that even the complainant has no objection in granting bail to the petitioner.

I have heard the learned counsel for the respective parties and have gone through the documents available on record.

Taking into consideration the stage of trial, period of custody undergone by the petitioner, the fact that the complainant has no objection to the bail being granted to the petitioner as also the fact that co-accused Narender @ Nanha and Sonu have already been granted the concession of regular bail, I deem it appropriate to allow the present petition.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

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.

The observations 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.

Petition stands allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

15.07.2022
rajender

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