

CRM-M-41788 of 2022 (O&M)

2023:PHHC:051874

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

CRM-M-41788 of 2022 (O&M)

Date of decision: 13.04.2023

Atal Bihari

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. I.S. Pabla, Advocate,
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

NAMIT KUMAR, J.

Pursuant to order dated 16.09.2022, reply by way of affidavit of Pawan Kumar, Deputy Superintendent of Police, Bahadurgarh, District Jhajjar, on behalf of respondent-State, which is already on file, is taken on record.

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.158 dated 13.05.2022 under Sections 379-B, 454 IPC, registered at Police Station Sector-6, Bahadurgarh, District Jhajjar.

Present case was registered at the instance of complainant Promila on the allegations that she is resident of Sector-6, Bahadurgarh. A vegetable-vendor, who himself stated to be resident of Shakti Nagar, Bahadurgarh, used to come in her street daily. On 13.5.2022, at about 5.10 pm, when she came back to her house after bringing the milk, said vegetable-hawker came her behind and asked for dringing water. After

CRM-M-41788 of 2022 (O&M)

2023:PHHC:051874

giving the water-bottle to him, when she was going inside, present petitioner caught hold of her from behind and put her on bed and then, he tried to press his neck and due to which, she became unconscious. Thereafter, the said hawker removed her golden chain, ear-rings and one golden bangle and fled away from the spot after locking the outsider gate of the house. On the basis of this complaint, formal FIR under Sections 454, 379-B IPC was registered. During investigation, present petitioner was arrested in this case on 17.5.2022 and in pursuance of his disclosure statement, he got recovered the snatched golden ornaments. After completion of investigation, challan was filed against him for trial.

Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case. He has produced the CCTV footage of the date of incident, which shows that petitioner entered the house of the complainant at 1701 hrs. and came out from her house at 1742 hrs and in the meanwhile milkman also entered the house of the complainant at 1723 hrs. The said fact has also been affirmed by the complainant in her deposition which is reproduced hereunder for ready reference: -

“I have seen the CCTV footage placed on the judicial file . At 16:57:27 o'clock , I came to the main gate of the my house and returned inside the house . Accused Atal Bihari was present in front of my house at 16:57:54 o'clock . It is correct that accused Atal Bihari did not enter and follow me inside my house at 16:57:54 o'clock. It is correct that accused Atal Bihari came in front of my house at 17:02:36 o'clock and entered inside my house by unlatching the main gate of my house . It is correct that my neighbour who was residing at first floor of my adjacent house was coming out from his room at 17:21:10 o'clock . It is correct that our milkman reached in

front of my house at 17:22:43 o'clock for delivering milk . It is correct that I came at the main gate of our house and received milk from milkman at 17:23:10 o'clock and went inside the house . It is correct that accused Atal Bihari was seen coming out from my house at 17:42:11 o'clock It is correct that my son Jatin reached at the main gate of our house at 17:43:22 o'clock . It is correct that my son Jatin came outside at 17:47:47 o'clock and looking here and there in the street and returned inside the house at 17:48:06 o'clock in normal way .

I did not sustain any external injury on my person on that day . Police never made enquiry from accused Atal Bihari in my presence . I cannot tell the time when my son Jatin informed the police about the incident . It might be about 6.00 PM when police reached my house and enquired the matter from us.

I cannot tell the date when I, alongwith police official reached Shakti Nagar, Bahadurgarh. I came to Shakti Nagar , Bahadurgarh with police , but not in the vehicle of police . There were two police officials . They were on motorcycle.

It is incorrect to suggest that we used to take vegetable from accused Atal Bihari on borrow basis or that when accused Atal Bihari demanded his borrowed money to the tune of 3,700 / - , altercation took place with him or that to teach a lesson to accused Atal Bihari , I called him inside the house and kept busy for sometime or that a false case has been imposed upon him by creating false evidences in collusion with police or that no such incident as alleged by me vide application Ex.PE took place or that I have deposed false.”

He further submits that investigation in the present case is complete; challan has been presented; charges have been framed; out of ten prosecution witnesses five witnesses have been examined and next date before the trial Court for prosecution evidence is 02.05.2023. He submits that petitioner is in custody since 17.05.2022. He is not involved in any

CRM-M-41788 of 2022 (O&M)

2023:PHHC:051874

other case. Trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

Per contra, learned State counsel while placing on record custody certificate has opposed the prayer for grant of regular bail to the petitioner. However, he could not refute that out of ten prosecution witnesses five witnesses have been examined; next date before the trial Court for prosecution evidence is 02.05.2023; the petitioner is not involved in any other case and trial may take a considerable time to conclude.

I have heard learned counsel for the parties and perused the record.

Keeping in view the custody of the petitioner, which is 10 months and 24 days; challan has been presented; charges have been frame; out of ten prosecution witnesses five witnesses have been examined; next date before the trial Court for prosecution evidence is 02.05.2023; the petitioner is not involved in any other case and trial may take a considerable time to conclude , however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed off accordingly.

13.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No