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102 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50800-2023 (O&M)

Date of decision : 24.11.2023

Sahabuddin

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Khalid Tauru, Advocate, for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana, for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.365 dated 02.07.2022, under Sections 342, 379-A, 420, 201 read with Section 34 of the Indian Penal Code, 1860, registered at Police Station Sadar Nuh, District Nuh.

2. Allegations are that petitioner along with other co-accused tried to strangulate the complainant; snatched his car as well as cash after tying his hands and legs. For brevity, contents of the FIR are reproduced as under:-

“Sir, it is request that I, applicant Kamaldeep, son of Jagdish Prashad, am a permanent resident of House No.549 Ram Park Extension Loni Ghaziabad (Uttar Pradesh). That I am the owner of Maruti Swift Car bearing registration No.HR-55-AC-2314 and am plying the same as a taxi to earn my livelihood. On 30.06.2022, at about 7:20 p.m four unknown persons booked my taxi from Railway Station New Delhi for going to Sector 58, Faridabad. They asked me to travel eight kilometers

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ahead from that place. When they had gone two kilometers ahead of Satnala Village, the accused asked to stop the vehicle on the pretext of urinating. After one of them alighted from the car, the other three persons put a towel (gamcha) around my neck, strangled and abducted me. Thereafter, all the four of them decamped with my car towards village Ujjina after throwing me in the fields. I somehow freed myself and called the police at 112 with the help of people. Police reached the spot and I narrated the whole episode. A cash amount of Rs.12,000/-, one mobile phone, entire documents of the vehicle, adhaar card and driving licence were also in my car. Legal action may be taken against those unknown persons and my car and money along with documents of vehicle may be got recovered.”

3. Learned counsel for the petitioner submits that petitioner was neither named in the FIR; nor any recovery has been effected. Also contends that there is no other criminal case pending against the petitioner. Further contends that on 09.12.2022, complainant stated before ASI Tek Chand, CIA, Nuh, that due to darkness, he was not able to recognize all four accused properly. Thus, petitioner has been falsely implication in the present case.

4. *Per contra*, learned State counsel, while opposing the prayer, submitted that petitioner was duly identified by complainant before the Tehsildar, Nuh, on 17.08.2023. Also submits that during investigation, it was found from the mobile location of petitioner that he was very much present at the place of occurrence at relevant point of time.

5. Heard both sides and perused the paper-book.

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6. It is not in dispute that petitioner was not named in the FIR; rather he was nominated on the basis of disclosure made by co-accused- Jafru. It has come on record that on 17.08.2023, Identification Parade was conducted by Tehsildar, Nuh and complainant duly identified the petitioner. In such a scenario, statement dated 09.12.2022 recorded by ASI Tek Chand, CIA, Nuh, shall not be helpful to the petitioner, at this stage.

7. Since allegations are very serious in nature and petitioner has been duly identified by complainant during Identification Parade conducted in the presence of an independent officer, i.e. Tehsildar, Nuh. Thus, custodial interrogation of petitioner would be necessary to find out the truth.

7. As a result thereof, there is no option except to dismiss the petition.

8. Ordered accordingly.

9. Also clarified that observations made above shall not be construed as an expression of opinion on merits of the controversy, in any manner.

10. Pending application(s), if any, shall also stand disposed off.

24.11.2023
adhikari

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No