

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

Crl. Misc. M-41543 of 2018 (O&M)
Date of Decision: November 29, 2018

Kalu Ram

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. G.C. Dhuriwala, Advocate along with
Mr. Ishwar Garg, Advocate
for the petitioner.

Ms. Rajni Gupta, Senior DAG Punjab.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.09 dated 26.01.2017, under Sections 376, 366, 506 of Indian Penal Code, registered at Police Station Bahavwala, District Fazilka.

Learned counsel for the petitioner herein contends that the petitioner was taken into custody in the aforesaid FIR on 07.12.2017 and after investigation, the challan was presented in the court on 05.03.2018. Thereafter, charges have been framed and several opportunities have been availed by the respondent-State to secure the presence of the prosecutrix. The prosecutrix was summoned by an order dated 27.09.2018 by issuance of bailable warrant in the sum of ₹ 5000/- for 11.10.2018, on which date she

put in appearance and herself requested for an adjournment. She was bound down for 01.11.2018, on which date again she did not put in appearance. The prosecution witnesses were summoned throughailable warrant in the sum of ₹ 5000/- for 22.11.2018, on which date again no appearance has been caused on behalf of the prosecutrix and the matter stand adjourned again. Learned counsel for the petitioner herein would contend that this is a case in fact, where both the prosecutrix and the petitioner herein were in a relationship. It is also submitted that polygraph test of the petitioner was conducted, in which his answers found to be true. It is also contended that conclusion of trial will take sufficient time, therefore, the petitioner is entitled to be enlarged on bail.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that statement of the prosecutrix is yet to be recorded. However, she does not dispute the fact that the prosecutrix is not coming forth, despite that she has been summoned throughailable warrant.

I have heard learned counsel for the parties.

Since, the trial is likely to take some time and in view of the facts that the petitioner herein has been in custody since 07.12.2017 and that the prosecutrix is deliberately trying to evade the trial, no useful purpose would be served in keeping the petitioner behind bars. At this stage, without commenting on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal bond and surety bond to the satisfaction of concerned

trial Court/Duty Magistrate.

November 29, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No