

S.No.222

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

CRM-M-10935 of 2019 (O&M)

Date of Decision:20.11.2019

MaheshPetitioner

Vs.

State of HaryanaRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Jitender Nara, Advocate for the petitioner.

Mr. Manoj Kumar Sangwan, DAG, Haryana.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of bail pending trial in case FIR No.757 dated 27.08.2017 registered under Sections 323, 324, 302/34 IPC at Police Station Jhajjar.

As recorded in the order dated 24.07.2019, the petitioner had pointed out that the petitioner is in custody since 05.09.2017. However, the prosecution are not examining their witnesses. It was further pointed out that out of 21 witnesses, only four witnesses have been examined. It was also pointed out that the complainant was deliberately avoiding appearing as a witness to avoid being exposed qua her falsity, because she was not actually the eye witness. On this, learned State Counsel had submitted that the case was fixed for 06.09.2019 and that the examination of the remaining witnesses of the prosecution would be completed within a period of two months after that date.

Today, learned counsel for the petitioner has produced the order dated 06.09.2019, passed by the trial Court. This order shows that the complainant and her son were present before the Court. However, they could not be examined as witnesses. No reason is given as to why they

were not examined. The case was adjourned for 05.11.2019 by binding down the complainant and her son for the said date. The remaining witnesses were also summoned by the trial Court.

However, the order dated 05.11.2019 shows that no witnesses were present on the said date. Even Police personnel, who had been duly served, did not appear as a witness before the trial Court. Accordingly, the case was adjourned for 15.01.2020. This order dated 05.11.2019, also shows that despite the fact that the complainant and her son were bound down for 05.11.2019, they were not present before the Court. Despite that, no warrants, bailable or non-bailable, were issued against these two persons.

In view of the above, the allegation of the petitioner; that the prosecution are deliberately delaying the trial; gets credence. The petitioner is in custody since 05.09.2017. His liberty cannot be left at the mercy of the prosecution anymore, who appear to be deliberately delaying their evidence.

In view of the above, the present petition is disposed of with a direction that in case the complainant Sunita, her son Yuvraj, the doctor relating to the medical evidence and the Investigating Officer/s of the case are not examined on the next date of hearing, then the trial Court shall release the petitioner on bail pending trial.

November 20, 2019

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(RAJBIR SEHRAWAT)

JUDGE

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No