

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(236)

CRM-M-9557-2021(O&M)
Date of Decision: 17.08.2021

Hardeep Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Bhavyadeep Walia, Advocate for the petitioner.

Mr. S.S. Sandhu, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.51 dated 2.4.2020 under sections 376, 450 I.P.C and Section 4 of POCSO Act, registered at Police Station, City South, District Moga.

FIR in question was lodged by the mother of the prosecutrix, wherein the allegations of rape were leveled against the present petitioner. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present FIR and he happens to be the first cousin of the prosecutrix. It has been further contended that the complainant was examined before the Trial Court as PW-2. Counsel contends that even when the statement of the prosecutrix was recorded under Section 164 Cr.P.C before the learned Addl. Sessions Judge, Moga, she did not support the allegations leveled by her mother in the FIR. Counsel has further

invited the attention of this Court to the statement of the prosecutrix, who was examined before the Trial Court as PW-1, wherein she did not support the case of prosecution and was declared hostile. Counsel contends that in view of the overwhelming records, it is apparent that the petitioner has been falsely implicated in the present FIR and his prosecution is nothing but an abuse of the process of law.

On the other hand, learned State counsel submits that both the material witnesses in this case have turned hostile before the learned Trial Court.

In the peculiar facts and circumstances of the present case, I find that learned counsel for the petitioner has very well established the case for grant of bail to the petitioner and I find no justification to keep him behind bars any more.

In the totality of circumstances and without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

17.08.2021

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