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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16399-2021 (O&M)

Date of decision : 10.09.2021

Kunwar Bahadur Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Charanpreet Singh, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, 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.

CRM-28950 of 2021

Application is allowed as prayed for.

Annexure A-1 is taken on record.

CRM-M-16399-2021

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.201 dated 25.08.2020, under Sections 376-D and 34 of Indian Penal Code, 1860, at Police Station Moti Nagar, District Ludhiana.

Learned counsel for the petitioner contends that the FIR in question has been registered by father of the prosecutrix namely, Kamlesh

Kumar wherein, he contends that though in the FIR, name of the petitioner was mentioned, however, thereafter, statement under Section 164 Cr.P.C. of the prosecutrix, who is major, had been recorded and there was no allegation *qua* the petitioner. He further submits that the false implication of the petitioner is evident from the fact that now the prosecutrix as well as the father, who is the complainant, both have been examined as PW-1 and PW-2 respectively. The depositions of both these witnesses have been placed on record. He has drawn the attention of this Court to the same wherein, both the witnesses have been declared hostile on the request of learned Public Prosecutor. He submits that the material witnesses have not supported the case of the prosecution and the petitioner who is behind bars since 24.08.2020, his further incarceration is totally unwarranted and he deserves to be enlarged on bail.

On the other hand, learned State counsel though, opposes the contentions raised by learned counsel for the petitioner that petitioner was named in the FIR since beginning, however, he concedes the factual aspect that both the witnesses have not supported the case of the prosecution and turned hostile. Further, he submits that in all there are 12 prosecution witnesses out of which 3 have been examined including the prosecutrix and the complainant.

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

Both the material witnesses have failed to support the case of the prosecution and petitioner is behind bars for more than one year. In view of overall facts and circumstances of the case, I find that learned counsel for the petitioner has succeeded in making out a case for bail to the petitioner.

The present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

10.09.2021
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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