

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

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CRM-M-17327-2021

Date of Decision: 28.04.2021

RAKESH KUMAR

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Manan Berry, Advocate,
for the petitioner.

Mr. Luvinder Sofat, Assistant Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (Oral)

This is the first petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.02 dated 03.01.2021 lodged under Sections 323, 354-B and 376-C of the Indian Penal Code, 1860 registered at Police Station Jamalpur, District Ludhiana.

Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the case in hand and that too after a delay of almost one month from the date of alleged occurrence wherein the prosecutrix was allegedly raped by the petitioner. He further submits that in her statement under Section 164 Cr.P.C. recorded before the Magistrate, the prosecutrix did not even by way of a whisper allege any wrong doing much less rape by the petitioner. He also submits that there is no medical evidence on record to corroborate the allegations of rape or injury having been inflicted on the prosecutrix by the petitioner and the co-accused. He further submits that the petitioner has been in custody since

05.01.2021 and there is no likelihood of the trial concluding in the near future as only challan stands presented so far.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Jatinder Kumar, has fairly conceded that the prosecutrix has not levelled any allegation against the petitioner of any wrong doing much less rape in her statement recorded under Section 164 Cr.P.C. He has also apprised this Court that challan stands presented in the case in hand, however, charges have not yet been framed.

Heard.

In view of the submissions made by learned counsel for the petitioner and the fact that the petitioner has been in custody since 05.01.2021, the trial is unlikely to conclude in the near future more so in the wake of outbreak of pandemic COVID-19, the present petition is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

28.04.2021

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No