

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

CRM-26674-2021 in/&
CRM-M-14282-2020
Decided on : 31.08.2021

Tony

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. A.S.Rai, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

CRM-26674-2021

This is an application under Section 482 Cr.PC for placing on record the statement of the prosecutrix as PW-1 (Annexure A-1).

Application is allowed and statement of the prosecutrix (Annexure A-1) is taken on record subject to all just exceptions. Office to tag the same at appropriate place.

Main case

Status report by way of affidavit of DSP, Jagraon, District Ludhiana (Rural) filed on behalf of respondent No.1 in Court today is taken on record subject to all just exceptions. Office to tag the same at appropriate place.

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.261 dated 27.11.2019 registered under Sections 376, 323, 34, 379-B and 120-B IPC, 1860 at Police Station Jagraon District Ludhiana.

Learned counsel for the petitioner *inter alia* contends that neither the petitioner was named in the FIR in question nor levelled any allegations much less of rape by the prosecutrix at the time of registration of the FIR in question. He submits that the prosecutrix nominated the petitioner as an accused in her supplementary statement recorded under Section 161 Cr.PC. He further submits that a false and fabricated story having been foisted upon the petitioner by the prosecutrix is evident from the fact that while stepping into the witness box as PW-1, she did not support the case of the prosecution as a result of which she was declared hostile. He thus prays for extending the concession of bail to the petitioner as he has been in custody since 28.11.2019 and only one out of 12 prosecution witnesses stands examined till date.

Per contra, learned State counsel has vehemently opposed the prayer and submissions of learned counsel for the petitioner. He, on instructions from ASI Surjit Singh has apprised the Court that no doubt the name of the petitioner did not figure in the FIR in question, however, soon after the registration of the FIR, the prosecutrix had got recorded her statement under Section 161 Cr.PC wherein she not only named the petitioner but also levelled allegations of rape against him. He further submits that as far as the question of prosecutrix not supporting the case of the prosecution is concerned, no doubt she was declared hostile but it was only qua the co-accused Rahul and as far as petitioner is concerned, prosecutrix had reiterated all the allegations including rape against the petitioner, which she had also made in her statement recorded under Section 164 Cr.PC. Learned State counsel has also submitted that the prosecutrix

had also identified the petitioner in the test identification parade, which was got conducted by the investigating agency.

Heard.

Prima facie there are serious and specific allegations against the petitioner for which he does not deserve the concession of bail. Accordingly the present petition stands dismissed. 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

31.08.2021

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No