

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

213

(Through Video Conferencing)

CRM-M-22795-2021

Date of decision: 23.09.2021

Ashok Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sunil Saharan, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana
for the respondent-State.

MANJARI NEHRU KAUL, J. (ORAL)

This is the first petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.42 dated 26.01.2021 lodged under Section 346 of the IPC (Sections 342, 354, 376(2)(n) of the IPC and Section 3(2)(Va) of the SC&ST Act were added lateron and Section 346 of the IPC was deleted) registered at Police Station Sadar Hisar, District Hisar.

Learned counsel for the petitioner contends that concocted version having been brought for against the petitioner is evident from the fact that at the time of lodging of the FIR in question on 26.01.2021, father of the prosecutrix had merely stated that he suspected that the two girls i.e. his daughter (prosecutrix) and her friend had concealed themselves somewhere, for which they should be searched. Learned counsel submits that two days later, the prosecutrix along with her father herself appeared before the police and got

recorded her statement dated 27.01.2021 vide Annexure P-2 wherein she stated that she along with her friend had gone away of their own accord as there had been some altercation between her and her parents. It was also stated that after leaving her house she had gone to the house of her aunt (Bua) at Village Rakhi. Still further it was stated that when her father learnt that she was at her Bua's house, he came and brought her back.

Learned counsel for the petitioner further submits that a perusal of the Annexure P-2 clearly reveals that at the time of making the said statement, the prosecutrix had not levelled any allegations of wrong doing against anyone much less the petitioner. Learned counsel submits that it was 20 days later the prosecutrix got recorded her statement under Section 164 of the Cr.P.C. wherein for the first time she levelled allegations of rape against the petitioner.

Learned counsel for the petitioner also submits that sequence of events right from the time when the prosecutrix went missing on 26.01.2021 and till the time she recorded her statement under Section 164 of the Cr.P.C. clearly reveals that it was after due deliberations and under pressure of her family the prosecutrix who admittedly is a major had come up with a fabricated version against the petitioner. Learned counsel submits that the petitioner has been in custody since 21.02.2021 and only one out of the 22 prosecution witnesses has been examined till now. He, thus, prays that the petitioner be extended the concession of regular bail as he has been in custody since 21.02.2021.

Per contra, learned State counsel while opposing the

prayer, on instructions from SI Vishvjit, has not been able to dispute the factual aspect of the submissions made by counsel opposite with regard to the statement of the prosecutrix under Section 164 of the Cr.P.C. being at total variance with the statement of the prosecutrix soon after her recovery on 27.01.2021 which has been annexed as Annexure P-2.

Heard learned counsel for the parties and perused the material on record.

In the circumstances as enumerated hereinabove, the present petition is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. 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.

23.09.2021

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No